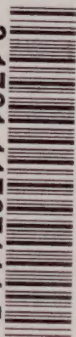


3 1761 11767111 5



Employment and
Immigration Canada

Emploi et
Immigration Canada

IMMIGRATION MANUAL

EXAMINATION AND ENFORCEMENT

ÉGALEMENT DISPONIBLE EN FRANÇAIS SOUS LE TITRE "EXAMEN ET APPLICATION DE LA LOI".

Canada



DATE

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED

RECEIVED



TABLE OF CONTENTS

CHAPTER 12

Note: Chapter 12 (Appeals
& Litigation filed behind
Divider 13)

REFUGEE CLAIMANTS IN CANADA

THE NUMERICAL REFERENCES TO THE ACT TAKE INTO ACCOUNT THE REVISED STATUTES. THE IMMIGRATION ACT 1976-77, CH. 52 IS REFERRED TO IN THIS CHAPTER AS "THE ACT" OR "THE IMMIGRATION ACT". REFERENCES TO BILL C-55 AND BILL C-84 NOW "THE IMMIGRATION ACT AS ENACTED BY S.C. 1988, CH. 35" AND "THE IMMIGRATION ACT AS ENACTED BY S.C. 1988, CH. 36" RESPECTIVELY, INCLUDE THE MENTION "C-35" OR "C-36" AS THE CASE MAY BE. PLEASE ALSO NOTE THAT THE VOCABULARY USED IS THE ONE USED IN THE REVISED STATUTES, ALTHOUGH BILL C-55 AND C-84 HAVE NOT YET BEEN INCLUDED IN THE REVISED STATUTES.

Paragraph

INTRODUCTION

GENERAL INTENT AND BACKGROUND

Canada's Commitment 12.01

GUIDELINES

Overview of the Refugee Determination Process 12.02

Definition of Convention Refugee Status
(UNHCR handbook) 12.03

PROCEDURES

Initiation of a Claim 12.04

Consideration of Humanitarian and Compassionate
Grounds/Pre-Inquiry 12.05

Notation of Travel Documents of Refugee Claimants 12.06

CPO at Inquiry/Hearing 12.07

Eligibility Criteria 12.08

Credible Basis 12.09

Reporting/Arresting Claimants Subsequent to
Inquiry/Hearing 12.10

Medical Examination of Refugee Claimants 12.11

Employment/Student Authorizations 12.12

Spares 12.13 - 12.16

Landing in Canada of Convention Refugees 12.17

Reopening of Inquiries of Convention Refugees 12.18

**Consideration of Humanitarian and Compassionate
Grounds/Pre-Removal**

12.19

Removals

12.20

Removals of Convention Refugees

12.21

Spare

12.22

**Prosecution of Refugee Claimants and Convention
Refugees**

12.23

Algorithm**Organizational Chart**

1

Overview

2

**Processing a Claim Initiated after a 20 Report or
a 103 Arrest**

3

Processing a Claim Inland - 27 Report

4

Inquiry Before Adjudicator and CRDD Member

5

Landing Granted by IO to a Convention Refugee.

6

[A48.04 C-35]

**Landing in Canada of a Convention Refugee by an
Adjudicator [A48.05(6) C-35]**

7

Removal Order

8

Action Following Negative Decision of CRDD

9

Appendix**IMM 5043 - Case Claim Highlight Form**

"A"

Personal Information Form (PIF) (IRB Form)

"B"

Imm 1434 - Refugee Status Claim

"C"

UNHCR Address

"D"

Letter Accompanying Positive Decision

"E"

Letter Accompanying Negative Decision

"F"



INTRODUCTION

On July 21, 1988, Bill C-55, an Act to amend the Immigration Act, 1976, received Royal Assent. This new law has given us a new refugee determination process for all persons who make a claim to Convention Refugee status in Canada. The purpose of this new system is to identify and protect genuine refugees through a fair and efficient process and to ensure that people who arrive in Canada to make claims for refugee status are given a fair and quick response. The bill reflects our obligations under the Geneva Convention relating to the Status of Refugees, and our humanitarian traditions towards refugees. The new law will also prevent abuse of the process by persons who are not genuine refugees and who do not need Canada's protection.

As we activate this system and monitor its degree of success, we must always remember that we are dealing with human beings who have an essential right to be considered with fairness and dignity, at all times. Over these last years we have treated our clientele in a humane and respectful way, as individuals, not as numbers, despite the difficulties and stress caused by the large volume of claims in the previous refugee determination system. Efficiency and quick processing should not result in the loss of our sense of compassion and sensitivity to the human side of each immigration case.

The policy framework within which this new system must function remains largely unchanged compared to that which underpins the Immigration Act, 1976. At that time, Parliament decided that the majority of Canada's initiatives to assist refugees would continue to take place outside Canada. Nevertheless, Parliament, through legislation, accepted that as a signatory to the 1951 Convention on the Status of Refugees, Canada would provide asylum to refugees arriving spontaneously at our borders for whom the consequences of removal from Canada would constitute exposure to the risk of persecution. The Immigration Act as enacted by S.C. 1988, ch. 35 clarified the categories of persons eligible to avail themselves of Canada's protection and provides more ready access to asylum for those who successfully engage our obligation to protect them. The pressure of events in the world may make the asylum obligation more or less onerous over time but the essential purpose of our undertaking this obligation remains unchanged; that is, the protection of individuals against involuntary return to a country where their life or freedom may be threatened.

The Immigration Act as enacted by S.C. 1988, ch. 35 creates a new environment for persons who have good knowledge of immigration legislation and experience in the application of the program. It also modifies the roles of the staff of the Immigration Branch,

and creates new challenges for Immigration personnel in Canada. It gives them new responsibilities in the determination process of the Convention Refugee within the context of the Canadian immigration legislation and program.

In view of these new conditions, the objective of these procedures is to provide a reference guide and a working tool to all immigration staff who must apply the new legislation. Generally, Immigration officials must become aware of the new rules governing access to the refugee determination system, the necessity of gathering evidence related to the eligibility or credible basis of a claim, the processing of applications for permanent residence made in Canada by recognized Convention Refugees, the various rights of appeal, the reconsideration, cessation and abandonment concepts. It is most important that Immigration staff familiarize themselves with these concepts as they exercise their new roles.

To succeed in the implementation of this new process will require productive management of the whole system by all involved. Each person applying the new legislation will have to develop and maintain a global awareness of the new refugee determination process, of its purpose, its mechanism, and its consequences. We must not simply seek the successful completion of the particular step for which we hold responsibility. Rather, we must see each of our activities as an essential element of the management of a complete system.

The purpose of this system is to identify and protect genuine refugees through a fair, efficient process and to quickly remove from Canada persons who are found to be in violation of the Immigration legislation and who do not need Canada's protection. Thus, there will be clear indicators of our failure or success in the management of the new system. If we do not learn to manage it efficiently and effectively, an uncontrollable backlog of refugee claims will soon develop: claimants will not get the quick, fair determination that is envisioned and violators who do not need Canada's protection will not be removed. If we succeed we will notice a decrease of our workload at the front end of our processing line, because the current enticements will no longer exist for economic migrants.

Our relationship with our immigration clientele will be affected by the existence of a different set of rules; rules which should lead to a quick and efficient resolution of each refugee case, while respecting the basic rights of each person. We must remain aware also of the general context surrounding this process, how it relates to Canada's immigration legislation and policies, to the Geneva Convention, and to the most important principles of administrative fairness.



It is this combination of a global understanding of the new legal and administrative system, of its purpose and its method and of the individual circumstances of our clients, who will also be making their steps through the new system for the first time, that will enable us to manage an efficient, yet fair and humane refugee determination process.

Since no country has yet been prescribed pursuant to A48.01(1)(b), all references to this paragraph are without any legal impact until such countries have been prescribed.



CHAPTER 12

REFUGEE CLAIMANTS IN CANADA

GENERAL INTENT AND BACKGROUND

12.01 CANADA'S COMMITMENT

- 1) a) Canada's role with respect to the world refugee problem is the selection abroad of refugees who need to be resettled here. The Immigration Act as enacted by S.C. 1988, C-35 also sets out our obligations to those refugees who arrive in this country seeking protection.
 - b) These obligations flow from our status as a signatory to the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol (acceded to on September 4, 1969). The provisions of the Convention and Protocol focus exclusively on the identification, protection and treatment of refugees in the territory of the signatory state. While the United Nations High Commissioner for Refugees (UNHCR) has a responsibility to oversee the application of the Convention and Protocol, the determination of Convention refugee status rests with the signatory state.
- 2) In response to Canada's international obligations and humanitarian traditions, the Immigration Act, as amended by chapter 35 of the Statutes of Canada, 1988 (S.C. 1988, ch. 35), provides a fair, expeditious refugee determination process designed to respond to the primary needs of genuine refugees and discourage frivolous claims from persons trying to circumvent immigration channels. Our domestic refugee policy is rooted in the principles of assistance, protection and non-refoulement of genuine refugees (i.e., a Convention refugee may be removed to a country where he or she fears persecution only if the refugee is considered a danger or security threat to Canada).



GUIDELINES

12.02 OVERVIEW OF THE REFUGEE DETERMINATION PROCESS

In sequential order, the principal stages of the refugee determination process in Canada are as follows [see Algorithm 2]:

- 1) a) Persons wishing to make a claim must notify an immigration officer of their intent [A46(1) C-35] or make the claim to an adjudicator at the beginning of an inquiry [A45(1) C-35].
b) Where an immigration officer is notified of a claim, he or she refers it to a senior immigration officer (SIO). [See Algorithm 3 and 4]
c) The SIO must then review the case for consideration under the Humanitarian and Compassionate guidelines (H&C) [see IE 12.05].
d) Where there is an alleged violation of the Act or a question of admissibility to be determined, if the refugee claimant does not meet the criteria under H&C grounds, the SIO causes an inquiry to be held before an adjudicator and a member of the Convention Refugee Determination Division (CRDD).
- 2) a) Claimants who are the subject of an inquiry have their claim dealt with at the inquiry after the adjudicator has reached a decision on admissibility or on an alleged violation of the Immigration Act [A48(1)(a) C-35 and A48.02(2) C-35].
b) Claimants within valid stay in Canada present their claim at a "hearing" which solely deals with the refugee claim [A46(3) C-35]. [See Algorithm 5]
- 3) a) The adjudicator presides at the inquiry or hearing [A47(1) C-35]. Negative decisions in respect of the claim must be concurred in by both the CRDD member and the adjudicator. A positive decision respecting the claim by either the adjudicator or CRDD member prevails. [A48(1)(c) C-35 & A48.02(2) C-35]
b) Where a claimant is sent to inquiry, he or she must make the claim before any substantive evidence relating to an A27 violation or A19 inadmissibility is adduced [A45(1) C-35], or thereafter be barred from registering



IE 12.02

a claim [A45(2) C-35]. The adjudicator will advise every person who is subject to an inquiry of the right to make a claim. If a claim is made, and a CRDD member is not present, the adjudicator will recess or adjourn the inquiry as required to provide for the presence of a CRDD member [A45(3) C-35].

- c) At the initial hearing into the claim, the CRDD member and the adjudicator determine if the claimant is eligible to have the claim considered according to criteria set in A48.01(1) C-35 [A48(1)(b) C-35]
- d) Where a claimant is found eligible for consideration of the claim, the adjudicator and CRDD member next determine whether a credible basis exists for the claim to proceed to a hearing before a two-member panel of the CRDD [A48(1)(c) C-35] [see IE 12.08].
 - i) At this referral stage, they consider evidence adduced before them, including the human rights record of the country from which the person claims to fear persecution and the disposition of claims made by other persons who have alleged fear of persecution in that country [A48.01(6) C-35].
 - ii) The claimant has the burden of proving that there is a credible basis for the claim [A48(2) C-35].
 - iii) Should the Minister's representative at the inquiry, the Case Presenting Officer (CPO), at any time form the opinion that there is a credible basis for the claim, he or she informs the adjudicator and CRDD member accordingly. They then must determine that the claim has a credible basis and shall proceed to a hearing before the Refugee Division. [A48.01(7) C-35]
- e) Where the claimant is found to be inadmissible or described in section 27 of the Act, the adjudicator shall pronounce the removal order or departure notice, taking into account the decision rendered on the claim.
 - i) Persons found to be inadmissible or described in section 27 are, if determined to be ineligible for a CRDD hearing at inquiry, issued a removal order or departure notice.
 - ii) Where a claimant is referred to a hearing before the CRDD for a determination of the claim, the



claimant who would otherwise be ordered removed or asked to leave Canada, is issued a "conditional" removal order or a "conditional" departure notice.

- iii) A conditional removal order or notice becomes effective only upon a final negative determination, the withdrawal of a claim, the abandonment of a claim; or the finding that a person determined to be a Convention refugee does not have a right under A4(2.1) C-35 to remain in Canada [A32.1(5) C-35].
- 4) An application under Section 28 of the Federal Court Act, against the adjudicator's order, may be made only with leave of a judge of the Federal Court [A83.1(1) C-35]. The decisions respecting eligibility for a CRDD hearing and the credible basis of a claim are also under review as they constitute part of the process leading to the issuance of the order. In status claimants have a similar right to seek leave to appeal to the Federal Court.
- 5) Except for persons residing or sojourning in the U.S. or St. Pierre and Miquelon who are subject to a report under section 20, all removal orders are stayed for 72 hours from the time the order is pronounced, unless the persons concerned indicate they do not wish to file an application for judicial review or appeal. Claimants described in A72(1) and (2) [C-35] have a right of appeal to the IAD and, for that purpose, have their removals stayed until the appeal is concluded [A51(1) C-35].
- 6)
 - a) Refugee determination hearings are conducted by two-member panels of the CRDD [A71.1(7) C-35] in a non-adversarial format.
 - b) Pursuant to A71.1(9) C-35, the CRDD determines whether or not claimants are Convention refugees as described in the Immigration Act. The CRDD also considers applications from the Minister concerning exclusion or cessation as well as reconsideration of refugee status [IE 13.08 and IE 13.09]. It also has the authority to conclude that the application has been abandoned.
 - c) The CRDD hearing is scheduled to commence as soon as practicable and the claimant is duly notified of the time and place [A71.1(1) C-35 and A71.1(3) C-35]. For persons who have been issued a conditional removal order or conditional departure notice, a hearing date must be given within 10 days of the conclusion of the inquiry [A71.1(2) C-35].



IE 12.02

- d) Although the burden of proof rests with the claimant to establish that he or she is a refugee, split decisions by the CRDD panel are handed down in the claimant's favour [A71.1(10) C-35].
- 7) CRDD decisions may be appealed with leave of a judge of the Federal Court of Appeal (FCA) on questions of law, jurisdiction including breach of natural Justice rules and perverse or capricious findings of fact [A83.3(1) C-35]. Where leave has been granted, decisions of the FCA may be appealed to the Supreme Court of Canada (SCC). Where the FCA refuses leave to appeal, no further redress lies to the SCC [A85.1 C-35].
- 8) Before removal is effected, claimants who have been found not to be Convention refugees by the CRDD will automatically have a review of their case under H&C grounds.
[See IE 12.19]

12.03 CONVENTION REFUGEE STATUS

1) Definition

The key to determining Convention refugee status is the definition of the term "Convention refugee" in the Immigration Act. This definition is contained in paragraph A.2(1) C-35.

It follows that a thorough understanding of every part of the definition is essential if a fair and impartial determination of Convention refugee status is to be made. Outlined hereunder is a breakdown of the definition. For detailed interpretations see the Handbook on Procedures and Criteria for Determining Refugee Status, available in English and French. Specific references to the handbook are included.

a) by reason of a "well-founded fear" of persecution

[UNHCR handbook, Part One, Chapter II B(2), paragraphs 37-65]

The phrase "well-founded fear of persecution" is the key phrase of the definition, reflecting the principal components that cause a person to become a refugee. It contains subjective and objective elements, both of which must be taken into consideration in determining a refugee claim. Assessment of credibility and background is indispensable where the case is not clear from the facts on record.



The element of "well-founded" does not imply that there should be at least a 50% chance that the applicant's fear would be realized upon return to his or her country. A reasonable chance of persecution is sufficient to establish a well-founded fear of persecution.

Persecution may stem from cumulative grounds and can include threats to life or freedom and excessive discrimination, harassment, punishment or prosecution.

A genuine refugee will also be distinguishable from an economic migrant. A refugee who for personal or economic reasons chooses to make a refugee claim in Canada instead of a neighbouring country, should not be confused with an economic migrant. In such a case it is not the reason for coming to Canada, but the reason for leaving (or staying outside) the country of origin, which determines whether a person is an economic migrant or a refugee. In assessing whether or not a person is a refugee, one should look critically at the initial reasons for leaving the country of origin.

- b) "for reasons of race, religion, nationality, membership in a particular social group or political opinion"

[UNHCR handbook, Chapter II B(3), paragraphs 66-86]

In order to be considered a refugee, a person must show well-founded fear of persecution for at least one of the reasons stated above.

Race comprises all kinds of ethnic groups referred to in common usage. Religion includes prohibition of freedom of worship. Nationality refers to linguistic groups as well as citizenship. Membership in a particular social group normally comprises persons of similar background, habits or social status. Political opinion refers to a person holding political opinions different from those of the government.

- c) "is outside the country of his nationality"

[UNHCR handbook, part one, Chapter II B(4), paragraphs 87-96]

In this context, nationality refers to the status of persons who hold a right of citizenship as distinguished from stateless persons. The well-founded fear of



IE 12.03

persecution must relate to the country of nationality. A person can become a refugee due to circumstances arising in his or her country during an absence. This situation is referred to as that of a refugee "sur place".

- d) "and is unable or, by reason of that fear, is unwilling to avail himself of the protection of that country"

[UNHCR handbook, part one, Chapter II B(5), paragraphs 97-100]

Unable implies circumstances beyond the will of the person concerned. Unwilling refers to refugees who, owing to their fear, refuse to accept the protection of the country of their nationality.

- e) "or not having a country of nationality, is outside the country of his former habitual residence and is unable or, by reason of that fear, is unwilling to return to that country"

[UNHCR handbook, part one, Chapter II B(6), paragraphs 101-105]

This phrase, relating to stateless refugees, is parallel to the preceding phrase. Not all stateless persons are refugees.

2) Cessation [see IE 13.08]

[UNHCR handbook, part one, Chapter III]

The new Act recognizes that persons cease to be refugees when:

- a) they voluntarily re-avail themselves of the protection of the country of their nationality;
- b) they voluntarily re-acquire their nationality;
- c) they acquire a new nationality and enjoy the protection of that country;
- d) they voluntarily re-establish themselves in the country that they left;
- e) the reasons for their fear of persecution in the country that they left cease to exist.



However, should any of the above grounds be established this does not automatically result in a loss of Convention refugee status [A2(3) C-35]

3) Exclusion

[UNHCR handbook, part one, Chapter IV]

The Act as amended incorporates Sections E and F of Article 1 of the Geneva Convention which exclude from the benefits of refugee status certain categories of criminals, terrorists, and persons already receiving protection in another country, even though they may possess the fundamental characteristics of Convention refugees. While the eligibility criteria of the new Act [A48.01 C-35] set out specific factors, Sections E and F provide broader exclusions.



PROCEDURES

12.04 INITIATION OF A CLAIM

General Intent and Philosophy

In order to ensure that no one is returned to a country in which he or she may face persecution, every refugee claimant in Canada is given an opportunity to have his or her claim assessed by experts in refugee matters. In recognition of the necessity of responding fairly and quickly to the needs of genuine refugees, the initial hearing is held within days, which also serves to deter frivolous claims.

1) Port of Entry

- a) Whenever a person expresses an intention to claim refugee status, an immigration officer (IO) completes the examination in the normal manner.
 - i) If the claimant is part of a non-admissible class the IO writes a report pursuant to A20(1).
 - ii) The IO responsible for the case must then initiate tracking of the case by entering into FOSS the Refugee Monitoring Document (RMD). (IO enters the Application screen [RMD-01])
 - iii) Any information obtained during the examination which relates to eligibility or credibility of the claim is to be noted on file so that it may be made available to the CPO.
 - iv) Examining officers should fill out the Case Claim Highlights form [see Appendix A] to record detailed information of a claimant's itinerary to Canada, including all countries travelled through, transportation companies used, method of entry/exit and length of time spent at each stop. Documentary evidence requested could include baggage checks, boarding passes, hotel receipts, currency, passport (stamps) and transportation tickets.
 - v) The claimant is then given a Personal Information Form (PIF) [see Appendix B] to complete, and counselled regarding the refugee determination process. Officers should emphasize to claimants that a properly completed PIF must be presented to the adjudicator at the inquiry.



IE 12.04

- vi) The IO will also complete a form IMM 1434 [see Appendix C] (or, where the full entry document system exist, the screen RMD-01 into FOSS and the corresponding declaration). A copy will be given to the claimant and the IO will inform the claimant that upon a favourable decision on his or her claim he or she will have to present this document to settlement services.

Although a person may arrive without travel or identity documents, the immigration examination should still be held, and should be based on the person's declarations as to his or her identity. Should an officer detain the person [A104.1(1) C-36] he or she will forthwith report the detention to a SIO. [See IE 15]

- b) Whenever a person is the subject of an A20(1) report and did not claim refugee status during the examination, the SIO should review the circumstances of the case, and if there is any doubt as to the person's intentions regarding the making of a claim, should determine what his or her intentions are.
 - i) Where this intent to claim is first indicated at a SIO review, the SIO explains the refugee process, and issues the PIF. SIO's should also emphasize to claimants that a properly completed PIF must be presented to the adjudicator at the inquiry.
 - ii) The SIO responsible for the case must then initiate tracking of the case by entering into FOSS the RMD. (SIO enters the Application screen [RMD-01].)
- c) All refugee claimants, including those without a valid travel document, will undergo a pre-inquiry review by a SIO on H&C grounds. The persons who meet criteria described in IE 12.05 may be eligible for a Minister's Permit and subsequently processed toward landing.
- d) Where the claimants do not meet the criteria for H&C consideration, the SIO then causes an inquiry to be held and notifies the scheduling unit or the person responsible for scheduling.
 - The SIO responsible for the case must then update the tracking of the case by entering into FOSS the Schedule date for the inquiry/hearing. (When date is



set, it is to be entered on the Inquiry/Hearing Information screen [RMD-02] by the responsible SIO.)

- e) If a SIO concurs with a report, the issue of detention is then addressed.

A SIO cannot detain a person pursuant to A23(3)(a), unless he or she is satisfied that the person poses a danger to the public or would not appear for an examination or inquiry [A23(6)]. Notwithstanding A23(6), a SIO may also continue detention under A104.1(1) C-36. [See IE 15]

- f) Except in cases of family members travelling together, each claimant is considered individually. For family members travelling together, although these cases may be subject of a joint hearing, the father is considered alone, the mother is considered accompanied by her children less than 15 years of age and each child 15 years of age or more should be considered individually although these cases may be joint for the hearing.
- g) The SIO must inform the claimant of the right to counsel of choice.
 - i) During this review the SIO should ask the claimant what his or her intentions are regarding representation by counsel. The SIO should inform the claimant that unless he or she elects to appear at inquiry without counsel or counsel of choice is prepared to proceed, a barrister or solicitor shall be designated to represent him or her.
 - ii) Unless the SIO is satisfied that the claimant has retained or intends to retain a counsel of choice who will be ready and able to represent the person at inquiry, or unless the claimant informs the SIO that he or she does not wish to be represented by counsel, the SIO is to notify the Designated Counsel Liaison Officer that a designated counsel is required to represent the claimant at an inquiry. The SIO will notate the file accordingly. When designated counsel is required, the SIO will send the Designated Counsel Liaison Officer a copy of the report and notice to appear.
 - iii) When persons are directed back to the U.S., [A23(5)], and designated counsel is required, the



IE 12.04

SIO should advise the person of the process by which he or she can arrange a meeting with designated counsel.

- iv) The SIO will not specify to the person concerned the name of the barrister or solicitor who will be appointed to his or her case. If the person concerned wishes to obtain this information the SIO will provide the telephone number of the Designated Counsel Liaison Officer, only if the person is released and does not have an address and telephone number where he or she can be reached. Otherwise the person should be advised that Designated Counsel Liaison Officer will contact him or her.
- h) In light of the principle of non-refoulement (IE 12.02 refers), U.S. permanent residents and citizens who claim to have been persecuted in the U.S. should not be directed back pursuant to A20(2) or A23(5).

2) Inland Enforcement Process

- a) Whenever a person is the subject of an A27 report or is arrested pursuant to A103(2), it should be determined if he or she intends to claim refugee status.
 - i) The A27 report is then referred to a CIC Manager who will decide whether to issue a direction for inquiry. In the assessment of the case, the CIC Manager should also take into consideration the humanitarian and compassionate grounds described in IE 12.05. The persons who meet these criteria may be eligible for a Minister's Permit and subsequently processed toward landing.
 - ii) Where the report pursuant to A103(2) is completed, the SIO, before to cause an inquiry, should referred the case to the CIC Manager who will assess the case taking into consideration the humanitarian and compassionate grounds described in IE 12.05. The persons who meet these criteria may be eligible for a Minister's Permit and subsequently processed toward landing.
 - iii) Where the claimants do not meet the criteria for H&C consideration the officer completes the Case Claim Highlights form, gives the claimant a PIF and explains the refugee process.



- iv) The officer responsible for the case must then initiate tracking of the case by entering the RMD into FOSS. (Officer enters the Application screen [RMD-01])
- v) If a direction for Inquiry is issued, except in cases of family members travelling together, each claimant is considered individually. For family members travelling together, although these cases may be subject of a joint hearing, the father is considered alone, the mother is considered accompanied by her children less than 15 years of age and each child 15 years of age or more should be considered individually.
- b) In A27(1) cases, the permanent resident should not be asked if he or she intends to claim refugee status until such time as a direction for inquiry is signed.
 - i) At that time, it is appropriate for the immigration officer to initiate the procedures for refugee claimants (complete the Case Claim Highlights form, etc.). [See IE 12.04(2)(a)(ii)]
 - ii) The IO responsible for the case must then initiate tracking of the case by entering the RMD into FOSS. (Officer enters the Application screen [RMD-01].)
- c) When a person who was arrested for inquiry [A103(2)], first makes a claim to the SIO during a detention review, the SIO must review the case under H&C guidelines [IE 12.05]. Where the claimants do not meet the criteria for H&C consideration the SIO initiates the procedures for refugee claimants. [See IE 12.04(2)(a)(ii)]
 - i) The SIO completes the Case Claim Highlights form, gives the claimant a PIF and counsels him or her regarding the refugee process.
 - ii) The SIO responsible for the case must then initiate tracking of the case by entering the RMD into FOSS. (SIO enters the Application screen [RMD-01])
- d) Any information concerning eligibility or credible basis is recorded on file for use by the CPO.



IE 12.04

3) During Authorized Stay in Canada

- a) The new legislation provides visitors and Permit holders who are in Canada with the opportunity to have a refugee claim determined in Canada without affecting their status [A46(1) C-35]. In keeping with the intent of this provision, providing the claimant meets the criteria for extension, officers may extend a claimant's temporary status until a determination has been made on a claim. A refugee claim in itself is not a reason for refusing extension, but the claimant should be able to satisfy the IO that he or she would be able and willing to leave Canada, if the claim is refused.
- b) Persons appearing at inland offices who wish to claim refugee status are interviewed by an immigration counsellor respecting their status in Canada.
 - i) Claimants who are in valid status and are not subject of a direction for inquiry or who are the holders of a Minister's Permit are referred to a SIO forthwith. The SIO then causes a hearing to be held before an adjudicator and a CRDD member. [A46(3) C-35]
 - ii) Before causing a hearing the counsellor assessing the case takes into consideration the humanitarian grounds described in IE 12.05. The persons who meet these criteria may be eligible for a Minister's Permit and subsequently processing for landing.
 - iii) Where the persons do not meet these criteria, the counsellor explains the refugee process, completes the Case Claim Highlights form, issues a PIF and inform the claimant that a properly completed PIF must be given to the adjudicator at the inquiry.
 - iv) Except in cases of family members travelling together, each claimant is considered individually. For family members travelling together, although these cases may be subject of a joint hearing, the father is considered alone, the mother is considered accompanied by her children less than 15 years of age and each child 15 years of age or more should be considered individually.
 - v) The Immigration counsellor responsible for the case must then initiate the tracking of the case



by entering the RMD into FOSS. (Immigration counsellor enters the Application screen [RMD-01])

- vi) Information relating to eligibility or credibility should be noted on file for the CPO's use.

Claimants who have been refused an extension of their status or of their Minister's Permit will have the opportunity of a hearing pursuant to A46(3) C-35 only where no direction for inquiry has been issued.

4) Permanent Residents

No provision exists for the making of a refugee claim by a permanent resident who is not the subject of an inquiry.

5) During Inquiry [see IE 12.07.5]

- a) Before any substantive evidence is adduced at an inquiry, the adjudicator gives the person concerned an opportunity to indicate if he or she claims to be a Convention refugee [(A45(1) C-35)]. If the person does not make a claim, the inquiry is continued. No claim can then be received or considered at any time thereafter [(A45(2) C-35)]. If the person first indicates a fear of returning to his or her country of citizenship or habitual residence, or otherwise first expresses a desire to claim refugee status at the inquiry, the inquiry shall be adjourned before any substantive evidence is adduced, to ensure the presence of a CRDD member [A45(3)].
- b) During the adjournment, the CPO gives the person a PIF. The CPO should counsel the claimant concerning the determination process, and instruct the person that a properly completed PIF must be filed with the adjudicator at the inquiry before the issue of eligibility is considered.
- The CPO responsible for the case must then initiate tracking of the case by entering the RMD into FOSS. (CPO enters the Application screen [RMD-01])



IE 12.05

12.05 CONSIDERATION OF HUMANITARIAN AND COMPASSIONATE GROUNDS

General Intent and Philosophy

When introducing the new Refugee system, the Minister made a public commitment to review the cases of all rejected refugee claimants on humanitarian grounds which would take place before any removal. A pre-inquiry review of all refugee claimants will also take place. The purpose of this section is to outline the procedures for carrying out these reviews. The pre-inquiry review procedures are described in the present section and the pre-removal review procedures are described in IE 12.19.

1) Definition of Humanitarian and Compassionate Grounds

The term "Humanitarian and Compassionate Grounds" refers to three distinct situations. These involve:

- a) persons upon whom their government will likely impose severe sanctions on their return home;
- b) situations of family dependency [see also IE 9.17 "Spouses" and IE 9.20 "Family Dependency"]; and
- c) persons whose personal circumstances, in relation to the laws and practices on their country, are such that they will suffer unduly on returning home.

2) Pre-Inquiry Review

For the purpose of the pre-inquiry review, SIO's will examine the circumstances of refugee claimants to determine if they meet the first or second situation described in 2) above, i.e.

- a) Are they members of an official delegation, athletic team or cultural group, or other individuals who, by seeking to remain in Canada, so embarrass their government as to leave themselves open to severe sanctions should they return home?
 - SIOs will seek advice from Case Management Branch, NHQ, when making decisions concerning persons who may be eligible under this criterion.
- b) Are there exceptional circumstances that could be resolved by the exercise of compassionate judgement? This refers to family dependency situations where close family members of a permanent resident would suffer



hardship if forced to return home to obtain an immigrant visa.

- SIOs should refer to the instructions contained in IE 9.17 (Spouses) and IE 9.20 (Family Dependency) for guidance. Hardship does not normally include financial penalty or inconvenience. Please note, however, that IE 9.17 recognizes that where a marriage is genuine, an application made by a spouse of a permanent resident will be processed from within Canada even if no hardship is involved in returning home to apply.
- 3) Persons who meet the above criteria should be issued a Minister's Permit and processed toward Order in Council landing, provided all statutory requirements are met.
- 4) a) Please note that these criteria should be seen as general guidelines only. They are not the sole determining factor in cases where, for example, a member of the family class or an athlete also has a criminal conviction or belongs to a major inadmissible class.
b) In addition, a claimant who meets the criteria described in 2) a) or b) above, may still wish to make a claim to refugee status. For example, a well known athlete may face not only severe sanction if returned home, but also persecution by his or her government. In such cases, the Commission's responsibility is to assist with the referral of the case to the Refugee Division (CRDD) through the inquiry process. Such a case should go forward to the CRDD.
- 5) In all cases, officers will note on the file that a pre-inquiry review was done and provide details of their decision, whether favourable or not.
- 6) In order to build up a profile of the final outcome of refugee claims, officers are asked to keep a record of the number of cases where positive discretion was used at the pre-inquiry stage. These numbers, including file numbers and country of origin of the applicant should be provided, via the Regional office, to the Manager, Selection and Inland Control, on a quarterly basis, i.e., January 1, April 1, July 1 and October 1 of each year.



IE 12.06

12.06 NOTATION OF TRAVEL DOCUMENTS OF REFUGEE CLAIMANTS

Immigration officers are NOT to enter a notation respecting a person's claim to refugee status on his or her passport or travel document. If the person is not a Convention refugee, he or she may be subject to harassment on return to his or her home country due to the endorsement.

12.07 CPO AT INQUIRY/HEARING

[This section should be read along with IE 11]

General Intent and Philosophy

The role of the Minister's representative in the Refugee determination process is to facilitate the processing of genuine claims and to prevent abuse of the process by non bona fide claimants.

..

- 1) a) A CPO represents the Minister before an adjudicator and CRDD member at an inquiry, or of a hearing to determine the eligibility and the credible basis of the claim.
 - b) During this initial part of the Refugee determination process, the CPO has an opportunity to present evidence, question witnesses and make submissions concerning the issues of eligibility for consideration of a claim and determination of the credible basis of a claim.
 - c) The CPO may be of the opinion that a person has a credible basis for a claim, and inform the CRDD member and adjudicator accordingly. [A48.01(7) C-35] [See also IL 3, Instrument I-39]
- 2) a) Prior to an inquiry or hearing, the CPO should examine eligibility and credibility issues and prepare a general line of questioning. In this review, the CPO considers the interviewing or the examining officer's notes, the claimant's travel document, the relevant country profile, the human rights record of the country concerned, the disposition of previous claims made by other persons who alleged fear of persecution in that country and any other relevant information available.
 - b) Questioning must be relevant, concise and conducted in an unbiased and professional manner. Leading questions should in general be avoided except where essential to successful cross-examination. [IE 11.19]



- 3) a) When an inquiry has been caused pursuant to A23(4)(a), counsel may be designated unless:
- i) the adjudicator is satisfied that the counsel representing the person is ready and able to proceed, or
 - ii) the person does not wish to be represented by counsel.
- b) It is foreseen that certain persons who did not want to be represented initially, will change their mind at a later point or, having intended to retain the services of counsel of choice will not find this counsel to be available. Thus, prior to the opening of the inquiry, the CPO should ascertain whether or not designated counsel is required.
- c) If the requirement for designated counsel is only identified at the time the inquiry opens, then the adjudicator will adjourn the inquiry and arrange for representation by designated counsel.
- d) CPO's are expected to put firm arguments before adjudicators with respect to any requests for adjournment in order to allow the person's counsel to appear. They should argue that while the person has a right to counsel, a choice must be made from among those who are ready and able to appear within reasonable time frames. It should be stressed that the claimant has had ample opportunity to obtain counsel since first advised of this right by a SIO prior to the inquiry, and that he or she has refused or failed to do so to date. In inquiries held pursuant to A23(4)(a), the CPO should submit that designated counsel must be provided as this counsel is available and able to proceed within the time frames envisaged in the Act.
- 4) a) A48(5) C-35 provides that the CRDD member and adjudicator must allow a representative or agent of the UNHCR to attend an inquiry or hearing as an observer if such attendance is not likely to impede the proceedings, and if the claimant consents to it or requests it. The address and phone number of the nearest UNHCR representative is included on the list of non-governmental organization given to claimants. If there is no such list available, the address and phone number should be given to the claimant. [See Appendix D]



- b) However, should a claimant seek an adjournment in order to ask a representative or agent of the UNHCR to attend, the CPO should argue that an adjournment is not warranted. It should be stressed that the claimant could have called the UNHCR representative prior to the inquiry, and that an adjournment to seek his or her attendance would delay the proceedings unnecessarily. It can also be argued that the local UNHCR representative would normally advise the CIC of the claims he or she wishes to observe prior to the hearing so that arrangements can be made for his or her attendance, and that no such contact was made. The CPO should also state that as the UNHCR representative is not a participant at the hearing or inquiry and would not be able to add to the evidence adduced concerning eligibility or credibility.
- 5) Whenever possible the CPO and counsel should exchange information prior to inquiry to establish which part of the eligibility criteria will be contested.
- 6) a) When the first indication that a person wishes to make a claim is at an inquiry, that inquiry must be adjourned to arrange for a CRDD member to attend.
- i) The claimant is then instructed to complete a PIF, and submit it to the adjudicator when the inquiry resumes.
- ii) The CPO responsible for the case must then initiate tracking of the case by entering the RMD into FOSS. (CPO enters the Application screen [RMD-01])
- b) At an inquiry, a refugee claim is not examined until an adjudicator has reached a decision on admissibility or any alleged violation of the Immigration Act [A48(1) C-35]. Then, whether or not the person is admissible or described, the adjudicator and board member will hear the claim.
- c) If the claimant is seeking refugee status for all members of his family in Canada, he or she should mention this fact during the course of the inquiry/hearing.
- d) The claimant must file a completed PIF with the adjudicator before the issue of eligibility is examined



[A47(2) C-35]. A copy of the PIF must also be given to the CPO if it was not done before.

- 7) a) Although the claimant proceeds first, if the CPO is of the opinion that a claimant is not eligible to have a claim determined by the CRDD, he or she advises the adjudicator and CRDD member of the specific basis of his or her opinion. The CPO is given an opportunity to question the claimant to establish ineligibility. [See IE 12.07]
 - b) There is no provision in the Act, as amended, for the Minister to form an opinion that the claimant is eligible. When the CPO feels at the outset, that a person is eligible for consideration of the claim, the CPO should inform the adjudicator and the CRDD member that the Minister does not intend to contest the eligibility of the claim in order to facilitate the process.
 - c) Under certain specific circumstances the CPO may wish to request that the adjudicator and the board member remain seized with eligibility during the credible basis portion of the hearing. Such circumstances would be, for example, when the CPO is awaiting documentary evidence which may influence the eligibility determination.
- 8) a) If the claimant meets the initial eligibility criteria, the adjudicator and CRDD member must then determine whether there is a credible basis for the claim to be referred to the CRDD for a determination regarding the claimant's refugee status. The claimant explains the basis for the claim and has the burden of proving that a credible basis for a claim exists [A48(2) C-35]. [See IE 12.08]
 - b) If the CPO has prior knowledge that a claim is credible or determines this during the questioning of the claimant or a witness, he or she should make this opinion known to the adjudicator and CRDD member as soon as possible and should point out the particular grounds of the Convention which appear to apply (e.g. well founded fear of persecution for one's political opinions). In such a case, the adjudicator and CRDD member must determine that the claimant has a credible basis for the claim [A48.01(7) C-35] and no evidence has to be adduced on this particular point. [Refer to Instrument I-39 - Delegation of Authority under A48.01(7) C-35]



- 9) a) At the end of the inquiry or hearing, when a claim is referred to the CRDD for a determination, the CPO should ensure that the interpreter (if there was one at the inquiry or hearing) remains available for the explanations of the CRDD member concerning subsequent procedures.
- b) When a claimant is referred to the Refugee Division, the CPO is responsible for providing the Refugee Hearing Officer (RHO) with any relevant information including evidence from the inquiry related to the claim. A transcript of part of the inquiry might be sent to the RHO but only in certain instances when the claimant's declarations at the inquiry were inconsistent or contradictory.
- c) When a claimant, who is referred to the Refugee Division, was found eligible because he or she has a well founded fear of persecution in the country that previously recognized him or her as a Convention refugee [A48.01(2) C-35], the CPO should ensure that this fact is noted on the file.
- d) If the CPO is of the opinion that, in view of contentious circumstances, the case may warrant the participation of an appeals officer at the CRDD determination, the CPO should provide a full report to the responsible Appeals officer manager. As the representative of the Minister, the Appeals officer will have the opportunity to present evidence but will only be able to cross-examine witnesses and make representations where sections E or F of Article 1 of the Convention become applicable.

Examples of cases which may require the intervention of an appeals officer are:

- cases which may be challenged before higher tribunals and result in decisions that may set precedents;
- cases which are of interest to the media because of their controversial nature;
- cases which could affect Canada's security or its relationship with other countries;
- cases where section A71.1(5) applies (see Chapter 13).



- i) This report should include the rationale for the Appeals officer's opinion.
 - ii) The CPO should attach to the report: a copy of the adjudicator and CRDD members decision, any conditional removal order or departure notice, if applicable, and the PIF.
 - iii) Following receipt of the report from the CPO, if the Appeals officer concludes that, in view of the controversial or contentious nature of the case, the intervention of the Minister is warranted, all relevant information is reported to the Chief, Appeals section, Appeals and Inquiries, NHQ. His or her concurrence is sought before participating at the hearing. [See IE 12.12] If the Appeals officer manager is of the opinion that no intervention by the Minister is required then he or she will advise the CPO office of this opinion.
- e) In addition, the CPO responsible for the case must update the information of the tracking of the case by entering into FOSS the Inquiry/Hearing Information screen of the RMD [RMD-02].

12.08 ELIGIBILITY CRITERIA

PARAGRAPHS DEALING WITH COUNTRIES REFERRED TO IN A48.01(1)(b) C-35 WILL BE INOPERATIVE UNTIL LIST OF SUCH COUNTRIES IS PRESCRIBED

General Intent and Philosophy

Canada is committed to genuine refugees in need of our protection. Thus the new system provides a legislative right to an oral refugee determination hearing before at least one member of the Refugee Division as well as an immigration adjudicator. However, the right to a full hearing on the merits of the claim has been restricted by legislation on two grounds, the eligibility and the credible basis of the claim. Eligibility depends on whether a person requires Canada's protection or is already under the protection of another country. At this stage of the process, as in all stages, the basic rights of the person will be respected.

Persons who have prior protection as refugees and those who already have safe haven are not eligible for a determination by the CRDD. To further discourage abuse, persons whose claims have



IE 12.08

been determined in Canada or who seek to delay departure or removal are also not eligible, as they have had ample opportunity to have their claims dealt with. Also, under the provisions of the Convention, a country is not obligated to provide protection where there is a danger to security and public order. Persons who constitute such a danger are not eligible for a determination of their claim since access to the process would merely prolong a person's stay without any reasonable prospect of the person's being allowed to remain.

These restrictions comply fully with Canada's international legal obligations and Canadian standards of justice. There are numerous safeguards to ensure that no claimant is returned to a country in which he or she might face persecution.

- 1) A determination on eligibility for consideration of a claim is made by an adjudicator and a CRDD member at an inquiry or at a separate hearing. Either the adjudicator or the CRDD member or both can determine that a claimant is eligible to have the claim considered. The adjudicator presides at the inquiry or hearing [A47(1) C-35].
- 2) Once a determination on admissibility or on the alleged violation of the Act is made by the adjudicator at the inquiry, the adjudicator and the CRDD member address eligibility. Even if a person is found not to be described or is admitted, the adjudicator and the CRDD member will hear the claim and will render their decision.
- 3) The claimant has the burden of proving that he or she is eligible to have the claim considered, and proceeds first in the eligibility phase. A CPO may also present evidence, question witnesses or make submissions concerning eligibility at either an inquiry or hearing.
- 4) The following categories of claimants are not eligible for consideration [(A48.01(1) C-35):
 - a) A claimant who is recognized as a Convention refugee by any country other than Canada, and has been issued a valid and subsisting travel document by that country, pursuant to Article 28 of the Convention. (The notation "Convention of 28 July 1951" should appear on such a travel document and it should authorize the holder to return to the country of asylum. See specimen travel document in annex of the UNHCR Handbook).
 - i) Such persons can normally be removed without danger or threat to their safety since they may be



admitted to a country where persecution is not an issue for them (i.e. they are guaranteed the protection of that country).

- ii) A person is still eligible to have a claim determined if either the adjudicator or CRDD member is of the opinion that the person has a well-founded fear of persecution in the country that recognized the person as a Convention refugee [A48.01(2) C-35]. This exception ensures protection of persons who face persecution in the country of first asylum. The standard used to assess whether a claimant is at risk in a country which has afforded prior protection is identical to that used to determine whether there is a credible basis for claim vis-à-vis the country of origin.
- b) A claimant who is the subject of an inquiry caused pursuant to A23(4)(a) and who came here from a country referred to in A48.01(1)(b) C-35.
 - i) The underlying principle behind this concept is that Canada is not the only nation in the world to accord protection to refugee applicants. It acknowledges the existence of a community of nations comprised of the signatories to the Geneva Convention. It recognizes that many claimants had, or could have, availed themselves of a degree of protection equivalent to that offered by Canada, in one or several foreign countries. These countries comply with Article 33 of the Convention in that refugee claimants can be returned there without risk of refoulement.
 - ii) The adjudicator and the CRDD member will have to be convinced by evidence submitted that both requirements of A48.01(1)(b) C-35 are fulfilled:
 - the country has been prescribed as a country that complies with Article 33 of the Convention; and
 - its laws or practices provide that claimants would be allowed to return to that country or would have the right to have the merits of their claims determined in that country.
 - iii) "Coming to Canada from that country" is an important factor in determining whether a claimant



is fleeing from the country where he or she fears persecution or whether the claimant is coming to Canada from a country other than his or her country of citizenship or habitual residence. Persons who merely take a transit flight through a country are not considered as having come from that country [A48.01(3)(a) C-35]. A claimant can be considered as coming from a specific country even if he or she did not have legal status there. [A48.01(3)(b) C-35]

- iv) Claimants who do not possess valid travel documents on arrival have the burden of proving that they did not come from the country in which the vehicle that brought them to Canada last took on passengers [A48.01(4) C-35].
- c) Claimants who, since "last coming" into Canada,
 - i) have been determined by an adjudicator and a CRDD member not to be eligible to have a claim considered or not to have a credible basis for a claim; or
 - ii) have been determined to have abandoned a claim or been determined not to be Convention refugees by the CRDD, the Federal Court of Appeal or the Supreme Court.
 - iii) For the purpose of establishing eligibility, where a claimant leaves and returns to Canada within ninety days, he or she is not considered as coming into Canada [A48.01(5) C-35]. Thus, the actions of the claimant during his or her previous stay in Canada must be considered. The day the person leaves Canada is not included in the ninety day time period. For example, a claimant who returns on the ninetieth day and seeks another determination of the claim, is not eligible to have a claim considered since his or her original date of entry is the date of "last coming into Canada". This provision prevents the utilization of repeat claims in order to delay removal from Canada. As per the "prescribed time frame", the person who comes back to Canada on the 91st day following his or her departure from Canada will have the opportunity to claim again.



- d) A claimant who has been "finally determined" under the Act or Regulations to be a Convention refugee [A2(4) C-35].
- e) A claimant who
- I) is described in A19(1)(j),
 - II) is a person
 - A) described in A19(1)(c) [including such cases reported under A27(1)(a) and A27(2)(a)], or
 - B) who has been convicted in Canada of an offence under any Act of Parliament for which a term of imprisonment of ten years or more may be imposed,who the Minister has been certified as constitutes a danger to the public in Canada, or
 - III) a person described in paragraph 19(1)(e), (f), or (g) or 27(1)(c) or (2)(c) where the Minister is of the opinion that it would be contrary to the public interest to have the claim determined under this Act.
- i) Information to be used as the basis for a Minister's certificate should be sent immediately to the attention of the Director, Immigration Program Delivery, NHQ, by secure means, with a copy to the Regional Director or Director General of Immigration, to initiate this procedure and forthwith establish that a claimant is not eligible to the refugee determination process on security or public interest grounds.
- ii) Where a detention review or an inquiry has been commenced and the answer from the Minister regarding the certificate is not yet received, the CPO should present to the adjudicator a written declaration stating that a certificate from the Minister has been applied for in order to establish that it would be contrary to public interest or to public safety to allow this claim to proceed. The CPO should, on that basis, request an adjournment.



IE 12.08

- iii) Ministerial certification that the person is a danger to the public is required for all cases relating to persons convicted of serious crimes, to demonstrate that a claimant is not eligible to be recognized refugee status in Canada [as set out in II) above]. This recognizes the fact that not all persons convicted of crimes necessarily pose a danger to the public. The offence may, for example, have taken place a long time ago. Officers should assess whether a person is a current danger to the public. This assessment will be based on an observation of the kind of behaviour (e.g. violent) demonstrated during immigration proceedings and on information on file from medical or police sources (e.g. convictions for violent crimes) which would indicate that the individual poses a danger to the public. Whether the person concerned has shown that he or she is rehabilitated is also an essential factor to be considered before making a recommendation for a certificate. Following such an assessment, and in any case where an immigration officer is satisfied that the person concerned is a danger to the public, Ministerial certification must be sought to establish ineligibility on grounds of criminality should a claim be made at inquiry.
- iv) Given the time constraints which may exist in respect of port of entry cases, information required in paragraph i) should be sent on an urgent basis by telex or facsimile to the attention of the person concerned.
- v) These certificates are different from those issued under sections A40(1), A41 and A104.1 C-36 in their origin and purpose. Certificates of subsection A48.01(1)(e) C-35 are signed by the Minister (in person - this authority has not been delegated); they do not have to be ratified by anyone and are not subject to judicial consideration by the Chief Justice of the Federal Court. This section aims to exclude from the refugee determination process persons towards whom Canada does not have any legal obligations according to the Convention. Please note that the persons described in A19(1)(j) (war criminals) do not require a certificate to be excluded.



- vi) Security certificates described in Sections A40 and A41 C-36 must be signed by the Minister and the Solicitor General. In the case of A104.1 C-36 it is only necessary for the Deputy Minister or his delegated authority to sign the certificate. Pursuant to Section 41 [C-36], the Federal Court shall judicially review the reasonableness of the certificate on the basis of the available evidence and information. These security certificates are issued for the purpose of detention and removal of persons representing a danger to public safety or for those persons who have committed serious criminal offenses. Security certificates serve as the evidence for establishing that a person is described in one of the security provisions of A19(1). Since the purpose served by these certificates differs, a person described in one of these certificates may also be subject of a certificate under A48.01(e)(iii) C-35 if that person claims refugee status. [See also OM IE 236 and addendum]
- f) Claimants who have been issued a departure notice and either have not left Canada or, having left pursuant to the notice, have not been granted lawful permission to be in any other country.
- 5) If the claimant is found to be ineligible to have a claim considered and is inadmissible or in violation of the Act, the adjudicator issues the appropriate removal order or departure notice. If the adjudicator determines that the person is admissible or that the allegations at the inquiry have not been established, the adjudicator takes the appropriate action [A48.02(1) C-35].
- 6) Where the claimant is found to be eligible, the adjudicator and the CRDD member next determine if a credible basis exists in order for the claim to proceed to the CRDD for a determination.



12.09 CREDIBLE BASIS

General Intent and Philosophy

This process is designed to identify persons who may be genuine refugees, and to quickly refer to the Refugee Division any claimants who are able to establish that their claims have a credible basis. The concept of identifying claims without credible basis has been adopted by other refugee-receiving countries and is consistent with UNHCR guidelines.

The assessment of credible basis is weighed in the context of actual information available concerning the country where the claimant alleges persecution, the personal circumstances of the claimant, and the results of prior claims made before the Refugee Division with respect to that country.

- 1) Once it has been determined that a claimant is eligible to have a claim considered, an adjudicator and a CRDD member must decide whether there is a credible basis for a claim which would warrant referral to a hearing before a two-member panel of the CRDD.
 - a) Since the burden of proof is on the claimant to establish a credible basis for the claim, he or she will be heard first.
 - b) To form their opinion, the adjudicator and the CRDD member take into account only the evidence adduced at the inquiry or hearing considered credible and trustworthy in the circumstances of the case [A48.01(4) C-35]. This evidence can include:
 - the human rights record of the country from which the person claims to fear persecution;
 - the disposition under the Act or Regulations of claims to be Convention refugees made by other persons who alleged fear of persecution in that country [A48.01(6) C-35].

This differs from the full hearing stage at the Refugee Division, where members may, pursuant to subsection A70(4) C-35, take notice of their own specialized knowledge.

- 2) The test of whether a claim is to be referred to the Refugee Division is a "low threshold" test. A claimant who is eligible will have the claim referred to the CRDD if there



is any credible or trustworthy evidence on which the Refugee Division might determine the claimant to be a Convention refugee, [A48.01(6) C-35]. The threshold may be stated as "... where an adjudicator or a Refugee Division member would conclude that there is some informed and believable evidence that the claim is related to the essential ingredients of the Convention definition, and on which a panel of the Refugee Division, acting reasonably, and in accord with that evidence, could possibly find the person to be a Convention refugee."

- 3) Claimants who have been found ineligible because they come from a country described in A48.01(1)(b) C-35 can have their claim reintroduced into the refugee process if the claimant cannot be removed to the country from which he or she came to Canada or when the person has not been admitted to that country. This provision gives the person an opportunity to have the credible basis of the claim considered before removal to another country is authorized.
 - a) In these circumstances, a SIO causes a hearing to be held before an adjudicator and CRDD member [A48.03(1) C-35].
 - The SIO responsible for the case must then update the information of the tracking of the case by entering into FOSS the Inquiry/Hearing Information screen [RMD-02] of the RMD.
 - b) At the conclusion of the hearing, the adjudicator and CRDD member will refer the claim to the Refugee Division if one of them determines that a credible basis exists.
- 4) The CPO may present evidence, question witnesses and make submissions relating to the credible basis issue. Documentary evidence may be filed by the CPO in order to establish the human rights record of the country of alleged persecution and the disposition of other claims from that country. Any documentary evidence filed by the CPO must be translated in full in the language of the claimant used during the inquiry or the hearing.
- 5) A CPO may form the opinion that a person has a credible basis for a claim. This may occur as a result of information available prior to the hearing or from evidence adduced during the hearing.
 - a) When this occurs, the CPO, who has been delegated by the Minister for the application of A48.01(7), advises the



IE 12.09

adjudicator and CRDD member that, as the Minister's representative [see IL 3 Instrument I-39], he or she is of the opinion that the person has a credible basis for the claim [A48.01(7) C-35].

- b) The adjudicator and CRDD member must then determine that there is a credible basis for the claim to proceed to a hearing before the Refugee Division without hearing any further evidence.
- 6) Either the adjudicator or the CRDD member can determine that there is a credible basis for a claim and that it will be referred to the CRDD for determination [A48.02(2) C-35].
 - a) If both find that the claim does not have a credible basis where the claimant is inadmissible or in violation of the Act, the adjudicator will issue the appropriate removal order or departure notice.
 - b) Where the claimant was not in violation of the Act or was admissible the adjudicator will take the appropriate action [A48.02(1) C-35].
- 7) A claimant who is determined to have a credible basis for a claim is referred to the Refugee Division, which is responsible for notifying the claimant and the responsible CIC (where the CPO presented the case) in writing of the time and place set for the hearing [(A71.1(3) C-35)]. If the claimant has been determined to be in violation of the Act, a date and time for the commencement of the CRDD hearing is set within ten days of the conclusion of the inquiry [A71.1(2) C-35]. In all other cases, the CRDD hearing is commenced as soon as practicable [A71.1(1) C-35].
- 8) The adjudicator is responsible for the preparation and transmission of the required documentation to the CRDD. [Rule 8(c) CRDD Rules]. The CPO may provide the RHO with any relevant information including evidence from the inquiry or the hearing related to the claim or, in specific circumstances where the claimant's declaration at the inquiry were inconsistent or contradictory, part of the transcript of the inquiry or hearing.
- 9) A removal order or departure notice which the adjudicator issues to a person who has a credible claim is described as "conditional". It does not become effective unless and until the claim has been finally determined (i.e. meets all requirements of Section A32.1(5) C-35. [See IE 12.20(2)]



12.10 REPORTING/ARRESTING CLAIMANTS SUBSEQUENT TO INQUIRY/ HEARING

General Intent and Philosophy

While the reopening provisions of the legislation allow us to deal with additional allegations without the necessity of another inquiry, situations may arise where this is not appropriate. The following guidelines have been developed for reporting/arresting claimants who are awaiting a determination of their claim by the Refugee Division [for claimants awaiting a hearing A46(3) C-35 see IE 12.04(3)]:

- 1) When a conditional removal order or conditional departure notice has been issued and a subsequent violation of the Act occurs, an A27 report is to be written as required and entered in FOSS.
- 2) However, where the person has been issued a conditional departure notice no direction is to be issued pending the CRDD decision unless a serious violation occurs. If the person is finally determined to be a Convention refugee, the additional allegation(s) can then be dealt with if the inquiry is reopened [A48.05(6) C-35 or A48.07(1) C-35]. Where a person is found not to be a Convention refugee, the conditional notice becomes effective and no action is to be taken on the A27 report.
- 3) In the case of a conditional exclusion order where the violation is serious and may warrant a deportation order, a direction for inquiry must be issued. In all other cases, where there already is a conditional deportation order no direction for inquiry need be issued.
- 4) When a conditional departure notice has been made and a serious violation of the Act occurs which warrants the issuance of a removal order, a direction for inquiry is to be issued and a second inquiry held notwithstanding the pending claim. A situation could, therefore, arise where a person is the subject of a conditional removal order and a conditional departure notice. Both would become effective if the person was found not to be a refugee. If the person is determined to be a Convention Refugee, both the conditional removal order and the conditional departure notice are dealt with at one reopened inquiry.
- 5) When a conditional removal order or conditional departure notice has been issued, and the person is arrested, a report will be written and a SIO will review the reasons for



IE 12.10

detention, as per A103(5). If the person is released by the SIO, no further action will be taken until the claim is finally determined. If the person is recognized as a Convention refugee the inquiry may be reopened [A48.05(6) C-35 or A48.07(1) C-35]. If the detention continues, an inquiry is to be held forthwith while the CRDD hearing is pending. If another conditional order or notice is issued, both order(s) and/or notice(s) can either be executed or dealt with at the reopened inquiry, if the Convention refugee is not landed.

- 6) If an in-status claimant becomes reportable under A27(2) while awaiting a determination by the Refugee Division, an immigration officer should write a 27 report and unless the infraction is of a serious nature no direction for inquiry should be issued before the decision of the Board is rendered. When the claimant is arrested and held in detention pursuant to A103, an inquiry should be caused forthwith [A28].

12.11 MEDICAL EXAMINATION OF REFUGEE CLAIMANTS

General Intent and Philosophy

In order to ensure that refugee claimants do not pose a potential threat to Canadian public health while their claims are being processed, the legislation provides for the medical examination of claimants.

- 1) A11(1.1) C-35 contains the authority for the medical examination of refugee claimants. Immigration officers will refer for medical examination, all persons referred to the CRDD for a determination hearing, other than permanent residents.
- 2) Refugee claimants with their own resources are expected to pay for their medical examination at their own expense. Health and Welfare Canada will bear the costs of the examination of a claimant, whom an immigration officer has verified to be indigent. [See IE 6.25]. It also covers the costs of any emergency medical treatment that claimants may require before they are eligible for insured coverage. If problems arise in the medical processing of a particular case, the immigration officer may contact the local office of Health and Welfare Canada for assistance.



- 3) Another medical examination will not normally be required if a claimant, who has passed an examination, is subsequently processed for landing in Canada. [See IS 8.11].

12.12 EMPLOYMENT/STUDENT AUTHORIZATIONS

General Intent and Philosophy

In recognition of the fact that final disposition of a claim that is referred to the CRDD may take some time, refugee claimants who are referred to the CRDD are allowed to work, if they cannot otherwise subsist without public assistance. This minimizes the burden on Canada's social support services. However, because issuance of such authority to claimants before credible basis has been determined would be an incentive to abuse, an employment authorization cannot be issued prior to a claimant being referred to the CRDD. In line with the same principle, school attendance is also facilitated so that claimants and their children may continue their education.

- 1) a) R16(1)(a)(iv) and R19(4)(k)(ii) provide the authority for issuing student and employment authorizations to claimants once they have passed a medical examination, if necessary [R21] and have been referred to the CRDD by an adjudicator and/or a CRDD member. A job-specific employment authorization may be issued to a claimant before medical examination results are obtained as long as the employment is not in the food or health industry, teaching, child care, etc.
 - b) Every request for an employment authorization should be considered on its own merit, however, it should be readily granted if there is any doubt that the claimant might require public assistance to subsist.
 - c) An employment authorization should be issued for the period of time believed necessary to deal with the refugee determination hearing. It may be extended until the claim is finally determined.
- 2) A claimant who is referred to the CRDD for a refugee determination is exempt from CEC validation in accordance with R20(5)(a).

12.13 - 12.16 SPARES



12.17 LANDING IN CANADA OF CONVENTION REFUGEES

General Intent and Philosophy

In view of the unique situation of Convention refugees in Canada, an expeditious landing process has been adopted. This provides security for Convention refugees and the earliest opportunity for the sponsorship of their family members. They do not need to demonstrate their ability to resettle themselves. However, in order to protect Canadian society, security and health requirements must be met. For the same reason refugees who have been convicted of serious criminal offenses or who are unable to support themselves cannot be granted landing.

- 1) a) A claimant (other than a permanent resident) who is determined to be a Convention refugee may apply for landing from within Canada [A48.04(1) C-35] unless he or she:
 - i) has been recognized as a refugee by another country which would allow him or her to return if the claimant were removed from Canada. By exception, when an adjudicator or CRDD member has previously determined that a person has a credible basis for a well-founded fear of persecution in the country that recognized the person as Convention refugee, the person may apply for landing in Canada;
 - ii) is a citizen or national of a country other than the country that the person left or outside of which the person remains by reason of fear of persecution; or
 - iii) has resided permanently in a country, other than the country that the person left or outside of which the person remains by fear of persecution, and would be allowed to return to that country if removed from Canada. Such persons would have immigrated to a third country and be able to avail themselves of the protection of that country. This provision can also refer to situations where a country has a concept of long term renewal of status for foreigners that is, in fact, permanent. Officers should ensure that these persons can be returned to this third country before they are found ineligible to apply for landing.



- b) This exceptional provision for the landing of refugees in Canada allows us to deal with their applications expeditiously, whereas normally landings initiated from within Canada require the approval of the Governor in Council so as to exempt applicants from visa requirements.
- 2) a) Accompanying a positive decision of the CRDD is a letter from the CEIC and three IMM 8 forms. This letter informs the Convention refugee of the procedures to follow and the time frames permitted to apply for permanent residence in Canada. [See Appendix E].
b) When an immigration counsellor receives a copy of a CRDD decision that a person is a Convention refugee, information on file is to be reviewed to make a preliminary determination concerning the person's eligibility to apply for landing. [Algorithm 6]
 - Upon receipt of the CRDD decision the immigration counsellor responsible for the case must then update the information of the tracking of the case by entering into FOSS the CRDD Full Hearing screen of the RMD [RMD-03].
- c) Where the person is ineligible to apply for landing, the claimant must be advised in writing. Where the refugee was subject of an inquiry, a SIO shall cause the reopening of that inquiry [A48.07(1) C-35]. [See IE 12.17(4)]
- d) Where a convention refugee is ineligible to apply for landing, and is in-status or is a permit holder, extension of status or permit should be considered solely on the merit of the application.
- 3) a) Where the Convention refugee applies within 60 days, the immigration officer has the authority to grant landing to the Convention refugee and any member of that person's family who is in Canada at the time of the application. The decision on an application for landing must be made by an officer as soon as possible after the application is received. It is not necessary to complete an IMM 1104 form.
b) If the officer is of the opinion that the person has not pursued the application, he or she may declare it abandoned after giving the person a reasonable opportunity to be heard [A48.04(5) C-35]. In such case, the immigration officer should obtain the concurrence of



his or her supervisor before writing to the refugee requesting his or her appearance at a set time and date to offer a reasonable explanation for the lack of diligence in proceeding.

- c) Convention refugees in Canada are refused landing if they or any member of their family in Canada are described in paragraph 19(1)(a), (b), (c), (d), (e), (f), (g) or (j) or 27(2)(c), or have been convicted of an offence under any Act of Parliament for which a term of imprisonment of more than six months has been imposed or five years or more may be imposed [A48.04(3) C-35]. Therefore, persons described 19(2)(A) or (B) are included in this paragraph only if they were convicted in Canada and if the maximum term or the imposed sentence meets the requirement.
- d) When the members of the refugee's family are not in Canada, the immigration officer must contact the post abroad in order that the appropriate action be taken. The inadmissibility of family members abroad does not prohibit landing of the refugee and family in Canada.
- e) In the case of medical or criminal inadmissibility, a Minister's Permit may be issued in accordance with existing guidelines if an eventual rehabilitation review is being considered.
- f) A conditional removal order or departure notice is deemed never to have been issued or made when an immigration officer lands a Convention refugee [A48.04(7) C-35].
- g) At this stage, the immigration counsellor responsible for the case must finalized the update of the tracking of the case by entering into FOSS the Landing screen of the RMD [RMD-05].
- 4) a) If a Convention refugee is refused landing, is declared to have abandoned the application for landing, does not apply within 60 days, withdraws the application or is not eligible to apply for landing:
 - i) Providing the refugee is not in status or a permit holder, the immigration officer immediately notifies an SIO in order that he or she may cause the inquiry to be reopened [A48.07(1) C-35].



- ii) If the person is the subject of an A20(1) report, additional grounds for inquiry may be presented at the inquiry [A21]. Grounds for inquiry which have arisen following an A27 report or arrest must be the subject of a separate A27 report. If a direction is then issued, these grounds can be considered by the adjudicator at the reopened inquiry [A48.07(5) C-35].
 - iii) Where the refugee is in status or a permit holder extension of the status or permit should be considered solely on the merit of the application.
 - b) The immigration officer must notify the refugee in writing of his or her decision with respect to the application for landing [A48.04(6) C-35]. The reason(s) for a negative decision should be included in the letter.
- 5) a) A person who is once again referred to the refugee system pursuant to A48.03 C-35 and is finally determined to be a Convention refugee cannot be landed by an immigration officer. The issue of landing should be dealt with on an exceptional basis because of the existence of the unexecuted removal order [A48.05(6) C-35].
- b) Where the claimant received a favourable decision from CRDD regarding his or her claim, a letter from the CEIC and three IMM 8 forms will accompany the positive decision. This letter informs the Convention refugee of the procedures to follow to finalize his or her application and the time frames permitted to apply for permanent residence in Canada. [See Appendix E]
 - c) In such a case the SIO who is notified of the CRDD decision and has determined that the person is not described in paragraph 48.04(1) C-35, refers the person to an immigration officer for the purpose of determining the refugee's eligibility for landing.
 - d) The person described in the CRDD decision has thirty days from the date of referral to apply to an immigration officer for a determination concerning whether or not he or she would be admissible, but for the existence of the removal order [A48.05(2) C-35].
 - e) An applicant is determined eligible to apply for landing, but for the removal order, if neither he or she



nor any member of the applicant's family in Canada is a person described in A19(1)(a), (b), (c) (d), (e), (f), (g) or (j) or 27(2)(c) or a person who has been convicted of an offence under any Act of Parliament for which a term of imprisonment of

- i) more than six months has been imposed; or
 - ii) five years or more may be imposed.
[A48.05(3) C-35]
- f) An immigration officer may declare an application abandoned where, although it was filed within the required period of time, the applicant has not pursued it [A48.05(4) C-35].
- g) Pursuant to A48.05(5) C-35 the immigration officer shall forward a written report to the responsible SIO and to the Convention refugee indicating:
- i) if the application for a determination of eligibility for landing was not made in time, was abandoned or was withdrawn; or
 - ii) whether or not the applicant is eligible for landing but for the removal order.
- h) Where the applicant is eligible for landing the officer shall complete a form IMM 1000 "Immigrant Visa and Record of Landing" [see IS 1 App.G] and send it, unsigned, with the file to the SIO.
- i) On receiving this report, the SIO causes the inquiry to be reopened [A48.05(6) C-35].
 - ii) The SIO responsible for the case must then update the information of the tracking of the case by entering into FOSS the Inquiry\Hearing Information screen of the RMD [RMD-02].
 - iii) The IMM 1000 will be signed by the CPO following the decision made by the adjudicator at the hearing.
 - iv) The CPO responsible for the case must then finalize the tracking of the case by entering into FOSS the Landing screen or the Removals screen of the RMD, as the case may be.



12.18 REOPENING OF INQUIRIES CONCERNING CONVENTION REFUGEES

General Intent and Philosophy

Convention refugees in Canada possess a qualified right to apply for and be granted permanent residence. This grant of landing provides them with the protection to which they are entitled under the Convention. This right is restricted in the case of persons who pose a risk to Canadian society. Convention refugees will be landed whenever possible. However, when they are not landed subsequent to being granted refugee status, inquiries are reopened to apply the legislative provision respecting those persons who have a right to remain in Canada.

INQUIRY REOPENING WHEN THERE IS A CONDITIONAL ORDER/NOTICE

- 1) a) A SIO causes the reopening of inquiries concerning persons who have been finally determined to be Convention refugees, but who are not eligible to apply for landing, by notifying the adjudicator.
[A48.07(1)a) C-35]
- b) A SIO will cause an inquiry concerning any other claimant found to be a refugee to be reopened only if his or her application for landing:
 - i) has been refused [A48.07(1)(e) C-35];
 - ii) has not been filed within 60 days [A48.07(1)(b) C-35];
 - iii) has been withdrawn [A48.07(1)(d) C-35];
 - iv) has been declared abandoned by an immigration officer [A48.07(1)(c) C-35].
- 2) a) At the reopened inquiry, the adjudicator determines if the refugee has a right to remain in Canada pursuant to A4(2.1) [A48.07(2) C-35]. Under A4(2.1) a Convention refugee has, while lawfully in Canada, a right to remain here except in certain cases relating to criminality and in cases where Canadian security is threatened.
- b) In deciding whether the refugee is to be removed, the adjudicator may take into consideration additional paragraphs of A19 not contained in the original report. Additional violations of A27(1) or (2) cannot be considered unless they have been the subject of another report and direction for inquiry. [A48.07(5) C-35]



- 3) a) If the Convention refugee has a right to remain in Canada pursuant to A4(2.1) C-35, the adjudicator allows him or her to remain and quashes the conditional removal order or departure notice [A48.07(4) C-35].
- b) If the adjudicator determines that the refugee has no right to remain in Canada, the adjudicator either confirms the conditional order or notice issued to the person, which order then becomes effective, or quashes the order or notice already issued and issues a new order or notice that is appropriate under section 32 [A48.07(3) C-35].
- c) In those few cases where it becomes necessary to issue a removal order against a person recognized as a Convention refugee, that person has a right of appeal to the IAD [A72(2)(a) C-35]. Legal and humanitarian or compassionate grounds may be invoked and considered except where a certificate under A40(1) C-36 is the basis for the removal order or the adjudicator has found the person described in A19(1)(e), (f), (g), or (j) or a certificate under A82(1) is issued, in which case only the validity of the removal order itself may be challenged.

INQUIRY REOPENING - NON CONDITIONAL ORDER/NOTICE

- 4) a) A SIO is to cause an inquiry to be reopened when he or she receives a written report from an immigration officer concerning a Convention refugee who had been referred for a second time into the refugee determination process pursuant to A48.03 C-35.
- b) At the reopened inquiry the adjudicator considers the report and,
- i) Grants landing to the Convention refugee and each member of the person's family in Canada for whom landing is sought, if the adjudicator is satisfied that, but for the removal order, the person is eligible to be granted landing. [A48.05(6)(a) C-35] [Algorithm 7]
- ii) In any other case, determines whether or not the person has a right under A4(2.1) to remain here. [A48.05(6)(b) C-35]
- iii) If the adjudicator grants landing, he or she cannot quash the removal order which remains in



effect. This order would not supersede the right to enter Canada under A4(1).

12.19 CONSIDERATION OF HUMANITARIAN AND COMPASSIONATE GROUNDS PRE-REMOVALS

General Intent and Philosophy

The pre-removal review applies to all refugee claimants including those who made an in-status claim, whom the CRDD has found not to be refugees according to the United Nations definition of Convention Refugee or who have been found not to have a credible basis to their claim to Refugee status. The purpose of the review is to ensure that we do not remove persons who would, because of their personal circumstances, face unduly harsh or inhumane treatment in their country of origin should they be removed.

1) Refused Refugee Claimants to be Informed of Pre-Removal Review

A letter will be included with the Board's letter informing refused refugee claimants that they are eligible for a review on discretionary criteria. If they so desire, claimants may submit any relevant evidence in support of their case. However, managers are not required to initiate contact nor to schedule interviews with claimants or their counsel to discuss the merits of the case. For example, the client or counsel may give a statement over the telephone. A written decision or written reasons for refusal are not required, only a notation that a file review has been done. Removal should not be delayed in order to receive written submissions.

2) Definition of "Humanitarian and Compassionate Grounds"

The term "Humanitarian and Compassionate Grounds" refers to three distinct situations. These involve:

- a) persons whose government will likely impose severe sanctions on their return home;
- b) family dependency [see also IE 9.17 "Spouses" and IE 9.20 "Family Dependency"]; and
- c) persons whose personal circumstances, in relation to the laws and practices of their country, are such that they will suffer unduly on returning home.



3) Pre-Removal Review

- a) CIC Managers will conduct the pre-removal review of those persons not meeting the credible basis test at the initial hearing. Managers are encouraged to discuss individual cases with Case Management at NHQ.
- b) Case Management Branch at NHQ will conduct the pre-removal review in those cases where the Refugee Division (CRDD) finds the claimant is not a refugee. The Immigration and Refugee Board (IRB) advises Case Management Branch of its decision at the same time as it advises CICs. CICs may be contacted by NHQ for input to the review. Removal arrangements should not be made until NHQ advises the CIC to proceed.
- c) CIC Managers and NHQ officials will refer to information which is already available to them concerning the situation in various countries. Country profiles used by the Refugee Division will also be made available.

4) Criteria of Pre-Removal Review

The following are eligible for favourable consideration, and landing from within Canada whether the review is done by the CIC Manager or NHQ:

- a) persons who, having regard to their personal circumstances in relation to current laws and practices in their country of origin, would face unduly harsh or inhumane treatment in that country should they be removed; a positive decision is called for when there are strong reasons to believe that the person will face a life threatening situation in his or her homeland as a direct result of the political or social situation in that country.
- b) Individuals who are members of official delegations, athletic teams or cultural groups, and other persons who, by seeking to remain in Canada, so embarrass their government as to leave themselves open to severe sanctions should they return home.
 - Decisions concerning persons who may be eligible under this criterion will be made in consultation with Case Management Branch, NHQ.
- c) Exceptional circumstances that could be resolved by the exercise of compassionate judgement. This refers to



family dependency situations where close family members of a permanent resident would suffer hardship if forced to return home to obtain an immigrant visa.

- The CIC Managers should refer to the instructions contained in IE 9.17 (Spouses) and IE 9.20 (Family Dependency) for guidance. Hardship does not normally include financial penalty or inconvenience. Please note, however, that IE 9.17 recognizes that where a marriage is genuine, an application made by a spouse of a Canadian resident will be processed from within Canada even if no hardship is involved in returning home to apply.
- 5) Reviews must occur within the time frames allocated by the Immigration Act for the removal of persons not meeting the credible basis test or who are found not to be Convention Refugees.
- 6) Written submissions from counsel are not required and removal proceedings will not be delayed until they are submitted. While CIC managers have the responsibility to inquire into the nature of any claimed humanitarian circumstances, they may expect:
 - a) that the reasons can be expressed orally;
 - b) that the reason such evidence was not available previously has substance; and
 - c) that any evidence which will be forthcoming and which could reasonably influence their decision will arrive in a timely fashion prior to the scheduled removal.
- 7) Managers will record their decision and indicate on the file that the review has touched on all criteria.
- 8) Removal Following Review
 - a) Once a removal order has become effective, it must be executed even if a decision is made to process an application for permanent residence from within Canada. In such cases, removal will normally occur via the U.S.A., followed by issuance of a Minister's Permit and Governor in Council authority to grant permanent residence.
 - b) Where a conditional removal order exists, a Minister's Permit can be issued, but it does not prevent the order



from becoming effective. Therefore, refugee claimants who are found to be eligible for landing under humanitarian and compassionate grounds will be issued a Minister's Permit before the conditional removal becomes effective. When the Order becomes effective, it will be executed, normally via the U.S.A. The applicant will be permitted to return to Canada pending the processing of his or her application for landing. The case can then be submitted to the Governor-in-Council for authority to land the person.

- 9) In order to build up a profile of the final outcome of refugee claims, officers are asked to keep a record of the number of cases where positive discretion was used at the pre-removal review stage. These numbers, including file numbers and country of origin of the applicant should be provided to the Manager, Selection and Inland Control, on a quarterly basis, i.e., January 1, April 1, July 1 and October 1 of each year.

10) Removals Delayed

- a) If the pre-removal review results in a negative decision, there may nevertheless be cases where it is appropriate for CIC Managers or NHQ to delay removal, e.g. where persons are likely to be put at risk if returned to their homeland because of natural disasters such as famine, epidemic, earthquakes, etc., and in situations where their homeland is undergoing civil strife or political disturbances. Their removal will be temporarily suspended for humanitarian reasons until the circumstances are such that the order can be carried out without risk to the individual.
- b) NHQ will normally advise the field by telex when a temporary delay of removal is warranted for citizens of countries undergoing natural or man-made disasters (see IS 6). Nonetheless, Managers have the discretion to delay removal if they feel that circumstances so warrant. Managers are also encouraged to discuss individual cases with Case Management Branch at NHQ.
- c) If the removal order is temporarily suspended because of strife or natural disaster in the country of origin, a Minister's Permit will not be issued. Removal will occur when it is safe to return the person.



12.20 REMOVALS

General Intent and Philosophy

The Act provides for stays of execution of removal in certain circumstances [A51 C-35]. A brief period of stay, is available to persons arriving from non-contiguous territory that allows these persons to express their intent and instruct counsel. However, there is no provision allowing for the complete stay of the execution of a removal order when an application for leave or other proceeding has been filed under section 18 or 28 of the Federal Court Act. This prevents use of the judicial review process as a means of delaying removal from Canada.

1) Stays

- a) A removal order issued to a claimant (other than a claimant residing or sojourning in the USA or St-Pierre and Miquelon against whom a A20(1) report was made) who is determined by an adjudicator and a CRDD member not to be eligible for consideration of a claim or not to have the necessary credible basis to have the claim determined by the CRDD is stayed:
 - i) If the claimant has a right of appeal to the IAD (the great majority of these cases will consist of permanent residents) [A51(1)(a) C-35]. This stay lasts, at the request of the person, for twenty-four hours from the time the adjudicator informs the person of the right of appeal. The stay continues if the claimant files an appeal with the IAD [A51(1)(c) C-35].
 - ii) In any other cases, if a claimant so requests, for seventy-two hours after a removal order has been issued for the purpose of considering the option of judicial review [A51(1)(b) C-35], retaining and instructing counsel.
- A) When a SIO has been advised that a person who is a port of entry case intends to make an application to the Federal Court in relation to the removal order, the SIO will contact the Designated Counsel Liaison Officer in order to ensure that designated counsel is provided to initiate the court action, unless the person's counsel is already available to take complete instructions within twenty-four hours or the IO is satisfied that the person will retain a



lawyer who will be available within twenty-four hours. [A30(3) C-35]

B) Where the person notifies the adjudicator before the inquiry is concluded, of his or her intention to file an application for judicial review, the adjudicator will take the necessary arrangements to inform the Designated Counsel Liaison Officer of the need to designate counsel.

b) No such stay of removal exists for claimants residing or sojourning in the United States or St. Pierre and Miquelon who are ordered removed as the result of a A20 report. They are to be removed there immediately to await the results of their litigation.

2) Conditional Removal Order or Departure Notice

a) A conditional removal order or departure notice does not become effective until the claimant [A32.1(5) C-35]:

- i) withdraws the claim to be a refugee;
- ii) is finally determined under the Act to have abandoned the claim;
- iii) is finally determined under the Act not to be a Convention refugee; or
- iv) is determined at an inquiry reopened pursuant to A48.07(1) C-35 not to have a right to remain in Canada [A4(2.1) C-35].

b) An order or notice remains conditional until an application for leave has been heard and disposed of or the time normally allowed for filing the application has elapsed. In cases of doubt as to whether or not the time for filing has elapsed, the Department of Justice may be contacted in order to help clarify the matter.

3) No contact should be made with foreign embassies until the issue of an individual's refugee status has been settled and the person has been finally determined not to be a Convention refugee. Once this determination has been made the claimant should be instructed to request a passport or travel document from the local representative of his or her country of origin.



- 4) If a claimant has been found not eligible to have a claim determined because he or she is returnable to a country described in A48.01(1)(b) C-35, the person may be returned without a travel document. However, documentary proof of the person's residence in that country or travel itinerary will be needed. This should be available from the file as it would have been used by the CPO to establish ineligibility.
- 5) Persons being removed to such a country must be escorted where the person poses a criminal, medical or security risk. [See IE 15]
- 6) Persons denied access to the Refugee Division because they come from a country described in A48.01(1)(b) C-35 can only be returned to that country. However, the individual may choose to go elsewhere. This limitation ceases to be in effect if a claimant is reintroduced into the Refugee determination system pursuant to A48.03 C-35 and the adjudicator and CRDD member have either:
 - a) determined that there is no credible basis for the claim; or
 - b) referred the claim to the Refugee Division which determined that the claimant is not a refugee.
- 7) Where a claimant has been found by the CRDD not to be a Convention refugee a letter from the CEIC will be sent to the person concerned along with the CRDD decision. The person will be asked to present himself or herself at a specific date on which his or her intention with regard to right of appeal will be sought and arrangements to finalize the file must be initiated. [See Appendix F]
- 8) In each CIC the escort officer responsible for making these arrangements should update the Removal screen of the RMD by entering into FOSS the information required.



12.21 REMOVAL OF CONVENTION REFUGEES

General Intent and Philosophy

One of the basic principles recognized by the Convention is that refugees should not be removed to a country where they fear persecution (principle of non-refoulement) except for reasons involving the safety and security of the receiving state. Therefore, the Act restricts the option of refoulement to those refugees who the Minister believes pose a danger to the public or to the security of Canada.

- 1) Persons determined to be Convention refugees, either in Canada or by a visa officer abroad, and claimants who are found ineligible for consideration of a claim because they are recognized by a signatory country and have been issued a travel document pursuant to Article 28 of the Convention are not returned to the country of persecution. An exception occurs if the refugee is described in:
 - a) A19(1)(e), (f), (g), A27(1)(c), or 27(2)(c) and the Minister is of the opinion that the person constitutes a danger to the security of Canada [A55(1)(a) C-35]; or
 - b) A19(1)(c) or has been convicted of an offence in Canada under any Act of Parliament for which a term of imprisonment of ten years or more may be imposed and the Minister is of the opinion that the person constitutes a danger to the Canadian public [A55(1)(b) C-35].
- 2) a) When an immigration officer has reasonable grounds to believe that a Convention refugee may be described in A55(1)(a) or (b) C-35, he or she should report this information to the CIC Manager. The officer should include with this report:
 - i) the person's criminal record with certified copies of the record of conviction, if available;
 - ii) any record of mental illness including Health and Welfare reports, psychiatric evaluations or certificates;
 - iii) security and criminal intelligence reports, if available;
 - iv) any information concerning episodes of physical violence; and



- v) the results of communications with third countries regarding the removal of the refugee to these countries.
- b) If the CIC Manager and the Regional office agree with the report, it is forwarded to the Director General, Case Management Branch, NHQ, who then presents the information to the Minister for decision.
- 3) Prior to returning a refugee to the country from which he is fleeing, enquiries are to be made with other countries to determine if they will give asylum to this individual. The assistance of the UNHCR should be sought in this endeavour.
- 4) Upon reception of the final decision on the case, the IO responsible for the case should update the Removal screen of the RMD into FOSS by entering the required information.

12.22 SPARE

12.23 PROSECUTION - REFUGEE CLAIMANTS AND CONVENTION REFUGEES

General Intent and Philosophy

With respect to refugees unlawfully in a country of refuge, Article 31 of the 1951 Convention relating to the Status of Refugees states that:

"The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of Article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

In keeping with Article 31 and in specific circumstances, the Act as amended by S.C. 1988, ch. 35 exempts refugees from prosecution for illegal entry or unauthorized stay in Canada. In accordance with the Convention, the conditions for application of these provisions of the Act include showing good cause for illegal entry or stay.

- 1) A96.1(1) C-35 therefore provides that a charge should not be laid while any refugee claim remains pending final determination by the CRDD or the courts for an offence under A94(a), (b), (c), (k) or (l), or under A95 or under A95(f),



(g) or (h) C-35 (relating to an examination), or an offence under A98 in relation to the coming into Canada of that person or an examination of that person under the Act.

- 2) Where a person is finally determined to be a Convention refugee pursuant to the Act, A96.1(2) C-35 prohibits prosecution for offenses under A94(a), (b), (c), (k) or (l), or under A95(f), (g) or (h) C-35 (relating to an examination), or under A95 or under A98 in relation to the coming into Canada of that person or an examination of that person under the Act. The offence must have occurred before the determination of the claim. Should, for example, a person determined to be a Convention refugee subsequently fail to report to immigration officials as required, this provision ceases to apply and any prosecution of action is subject to the normal considerations under the offence provisions of sections 94, 95 and 95 C-35 of the Act.
- 3) Persons determined not to be Convention refugees remain subject to A94, A95, A95 C-35 and A98 and normal prosecution policy considerations.
- 4) As stipulated in Article 31 of the Convention, direct travel to the country of refuge (in this instance, Canada) is a further qualification of section 96.1 [C-35]. Coming directly to Canada from a country from which a person fears or claims to fear persecution means a continuous voyage (includes transit) where stop-overs, other than sojourns in countries not signatory to the Convention or Protocol, occurred only for the purpose of revising travel plans in response to unforeseen events.
- 5) A deferral of or exemption from prosecution for illegal entry or stay does not apply where the claimant fails to report to an immigration official to pursue a claim to Convention refugee status within a reasonable time frame. This is provided for in Article 31 of the Convention and is defined in the Act in 96.1(3) C-35. A claimant who was admitted as a visitor or who came into Canada under the authority of a Minister's Permit must notify an immigration officer of the claim within three months of expiry of his authorized stay in Canada. In the case of a claimant who came into Canada without authorization, notification must be made within three months of his or her arrival.
- 6) If a refugee claim is made or positively determined after prosecution of an offence has been initiated, arrangements should be made with the local Immigration and Passport section of the RCMP to suspend or terminate prosecution action, as appropriate.



12.62 REDETERMINATION OF REFUGEE CLAIMS BY IAB (Form IAB 91)

- 1) The Minister's notification to the person concerned, and the senior immigration officer, that he is not a refugee (A45(5)), will:
 - a) advise the person of his right to apply to the Board for a redetermination of the decision and the manner in which it must be initiated;
 - b) explain the documentation which must accompany the application (A70(2)).
- 2)
 - a) Redetermination procedures become applicable only when the claim was made during an immigration inquiry and the Minister rejected the claim.
 - b) Immigration officers may advise the person concerned of his right to counsel, but will not become involved in the preparation of affidavits supporting refugee applications.
 - c) If an applicant is unable to complete all the documentation required in A70(2) within the fifteen day limit and seeks advice, he will be referred to the IAB.
 - d) Applicants in their own interest should be encouraged to serve the application on the SIO who examined them under oath. Nevertheless, if it is served on another officer, he will accept it.
- 3)
 - a) Upon receipt of an application for redetermination (IAB 91), an immigration officer will:
 - i) send the original and two certified copies of the application and accompanying material to the Board;
 - ii) send a copy of the material in i) to the applicable Manager, Appeals Office;
 - iii) send a copy of the application and accompanying material to the Chief, Appeals and Litigation, N.H.Q.;
 - iv) ensure resumption of the inquiry is delayed until disposition of the application by the Board.
 - b) When an Application for Redetermination (IAB 91) is accepted by an Immigration officer "without prejudice" for any reason other than the fact that notice was served outside of the time limit imposed by legislation, the reason will be clearly indicated by the ink insertion of



"without prejudice" between the words "acknowledged" and "this" on the line which reads "Service thereof acknowledged this _____ day of _____ 19____, and, above the Immigration officer's signature, the reason, e.g., "transcript of examination under oath not attached".

- c) The Courts have conceded that the onus is on the applicant to ensure that the declaration is in its proper form, and it expressed its concern that the Commission should exercise greater care in acknowledging service of documents as required by A70(2). The Court noted, further, that declaration forms had been provided by the Commission in what appeared to be an unofficial printed format, calling for an Immigration officer to administer and sign the declaration. While, beyond explaining the documentation which must accompany the application, there is no obligation for officers to assist applicants in the completion of a declaration as noted in IE 12.62(2)(b), the use of IMM 1392 is suggested as a standard form to be employed nationally and to be duly signed and dated by officers where declarations are sworn before them. In the event they are unable to obtain properly sworn declaration, officers should, when acknowledging receipt, add a notation to this effect on the application (IAB 91) in an attempt to avoid referrals back to the Board.
 - d) When forwarding material to the Board, the covering letter is to address three areas, as applicable:
 - i) list the material (including the IAB 91) which has been enclosed;
 - ii) indicate which of the A70 2) material has NOT been included and why (e.g., applicant failed to provide a declaration);
 - iii) where transcripts of examination suggest that additional written submissions were to be made to the RSAC, indicate whether, in fact, such submissions were or were not made.
 - e) Transcripts of the interview of the applicant by an RSAC official are not to be provided as part of the examination under oath pursuant to A70 2). When the applicant asks that it form part of the claim, it is to be listed in the declaration as additional information and evidence. When not listed in the declaration, the covering letter is to specifically indicate that it is attached solely at the claimant's request.
- 4) Copies of written negative decisions by the Special Review Committee should not be included in the application and submission for redetermination forwarded to the IAB. However, where it is evident from the person's application and supporting documentation that he wants it to form part of his application the record may then be sent to the Board. The memorandum outlining the Special Review Committee's negative decision may be prejudicial and could prejudice the determination of the IAB that the refugee claim may not be successful.



- 5) Following disposition of the application by the Board, the appeals officer will ensure that the appropriate SIO is notified.
- 6) If the case goes to a full hearing, the Appeals Officer will obtain from the Board any material not available to the immigration officer originally served with the application.

12.63 APPLICATIONS TO RETURN FOR HEARINGS

- 1) The adjudicator who notifies a person from contiguous territory of his right to appeal to the IAB from the removal order made against him on arrival, will immediately inform him that:
 - a) the entering of appeal in his case will not delay removal, but he has the right to apply to the Board for authorization to return for his hearing if he so desires (A51(1), A58(1) and A77);
 - b) to exercise this right, he should indicate his desire on his "Notice of Appeal", or inform the appropriate Registrar of the Board by registered mail at least ten days prior to the hearing of his appeal;
 - c) the Board's authorization for his return will be conditional on his ability to comply with conditions stipulated by the Board.
- 2) "Person from Contiguous Territory" is an abbreviation of what A51(1) refers to as "a person residing or sojourning in the United States or St. Pierre and Miquelon". It includes citizens and permanent residents of these territories and persons coming to Canada who came from these territories and who may be returned there (see IE 14.31 and 14.32).
- 3) The removal of such a person from Canada (pending appeal) pursuant to A51(1) will be indicated to the Board in the "Notice of Appeal" statement:

"I wish to be present at the hearing of the appeal to make oral submissions to the Board".

This will alert the Board and the appeals officer to the applicability of A77. Letters to the Board expressing a desire to avail of the provision in A77 are only necessary if this was not indicated on the Notice of Appeal.

- 4) Interested individuals should be told that the provisions in A77 only ensure their return for the appeal hearing (return for any other purpose is covered in 12.64), and their presence is not necessary if their appeals are presented in writing, or they leave it up to their counsel to represent them at the hearing, or they simply rely on the "Record". If they do come for the hearing, their expenses will be their own responsibility.
- 5) When an immigration officer is informed that an appellant wishes to leave or has left Canada before disposition of his appeal, the officer will forthwith ensure he is informed of his right to apply to the Board for authorization to return for his hearing.



- 6) An appropriate letter informing the appellant of this provision will normally be sent by the appeals officer responsible for the appellant's file. Field officers would only need to ensure that the appropriate appeals officer is informed of the appellant's departure.
- 7) Where it is indicated on a "Notice of Appeal" or in a communication from the Board's Registrar ("A" IABR 48(1)) that an appellant wishes to exercise the provisions of A77, an appeals officer will:
 - a) within five days of such notice, inform the appropriate Registrar of the conditions recommended by the Minister to be attached to an "Authorization to Return" (see Appendix "F");
 - b) provide copies of this correspondence to the Chief, Appeals and Litigation and the appropriate field office for information.
- 8) The Registrar will normally attach the admitting conditions recommended by the appeals officer to the Board's "Authorization to Return", and forward these documents to the person concerned indicating thereby the Board's acceptance of the conditions.
- 9) When an appellant presents himself at a port of entry with the Board's "Authorization to Return", the examining officer will:
 - a) verify the identity of the person, ensure compliance with stipulated conditions and allow return to Canada pursuant to A77;
 - b) document the return and indicate "Authorized by the Board pursuant to A77" on IMM 1097;
 - c) attach a copy of IMM 1097 to the Board's "Authorization to Return" presented by the person and return same to the person and retain a copy at the port for follow-up;
 - d) inform the person that he must leave Canada through the same port by the time stipulated and surrender his entry documents to the port before leaving (this may be subject to a Board decision given at the hearing);
 - e) provide escort service, if stipulated in conditions (see IE 14);
- * f) in case of an applicant coming from the United States, provide the immigration official in charge of the opposite U.S. port of entry with a written notice of the facts and circumstances of the case immediately upon the arrival of the individual in Canada to ensure that Canada's interests under the Reciprocal Arrangement for the Exchange of Deportees are protected (see also IE 14.36).



12.64 RETURN TO CANADA OF APPELLANTS ("A" IABR 48)

- * 1) a) Except as in (b) below, in all cases where an appellant leaves or is removed from within Canada while his/her appeal is pending and he/she wishes to return for purposes other than to attend his appeal hearing he/she must seek consent to return from the Minister. If, after consent is granted, the person concerned remains inadmissible, authorization to return could be by way of permit (A37(1)) or senior immigration officers may grant entry for valid reasons for periods not exceeding 30 days if applicable (A19(3)).
- + b) Where an appellant has left Canada or has been removed from Canada while his/her appeal is pending and the person concerned seeks to return to Canada directly from the United States for purposes other than to attend the appeal hearing, he/she must seek consent to return from the Minister. In such cases, consideration may be given to authorizing the person's return under a Minister's permit in order to ensure that Canada's interests are protected under the terms of the Reciprocal Arrangement in the event removal from Canada becomes necessary at a future date. (See also 14.35). It is important to note in dealing with persons arriving at Canadian border ports directly from the United States that the grant of any form of entry effectively places the person concerned outside the terms of the Reciprocal Arrangement for the Exchange of Deportees and that the United States Immigration and Naturalization Service is under no obligation (except in the cases of U.S. citizens) to consider accepting the person's return to that country should removal action become necessary after the person comes into Canada.
- 2) Where an appellant seeks to return to Canada to attend his appeal hearing, he must apply in writing to the IAB. Upon notification of the application, an appeals officer may, within five days, make a written submission to the Board respecting the person's return. Officers receiving an application to return will refer it to the appropriate Appeal Board Office.
- 3) The Act also provides that a "stay" of removal granted to an appellant by the Board is sufficient authority for that person's return if he leaves the country during the period granted (A58(2)).
- 4) A person returning to Canada as in 2) and 3) above does not require the consent of the Minister for his return. The authority in these two situations rests with the Board.

12.65 WITHDRAWAL OF APPEALS

- 1) A Notice of Appeal, signed and served, may be withdrawn only upon written notice signed by the appellant or his counsel. It should be filed directly with the Board ("A" IABR 13).



- 2) A Notice of Withdrawal prepared by an immigration officer, at the request of the person, should be worded as in Appendix "I". If an appellant advises an officer that his counsel has no knowledge of the withdrawal, he will be advised to discuss his proposed withdrawal with his counsel and be given an opportunity to do so before the officer prepares the Withdrawal Notice. The original Notice of Withdrawal will be sent to the applicable Registrar with copies to all recipients of the "Notice of Appeal".
- 3) If, prior to the preparation of the Record, an appellant withdraws his appeal, the Record need not be distributed, but should be kept on file pending a possible motion to reinstate or court action.
- 4) Once the applicable Registrar has confirmed acceptance of the withdrawal, there is no impediment to removal, if applicable, from an appeals standpoint.

12.66 RE-OPENING OF AN INQUIRY BY DIRECTION OF THE IAB

- 1) When the IAB directs the re-opening of the appellant's inquiry to obtain additional evidence and testimony, the responsible appeals officer will ensure that the adjudicator is advised so that the inquiry may be re-opened without undue delay.
- 2) Normally, the adjudicator concerned will receive a copy of the Board's directive from the Registrar and will follow up on his own initiative. However, the Manager of the appropriate Appeals Office will assume responsibility for following up progress on the directive.



**IMMIGRATION
MANUAL**

**GUIDE
DE L'IMMIGRATION**

IE 12.66

- 3) The adjudicator who re-opens an inquiry pursuant to a directive of the Board will:
 - a) ensure that the person concerned, his counsel and all necessary witnesses as well as the Commission CPO receive due notice of the re-opening and attend as required;
 - b) provide the Board and interested parties with the transcript of the hearing and copies of all documentary evidence adduced and his assessment of the evidence and testimony.
- 4) The role of counsel and CPO in such re-opened hearings will be to pose appropriate questions to witnesses and introduce relevant documents. They will not present arguments or submissions, and the adjudicator will not render a decision.

12.67 RE-OPENING OF AN APPEAL BY DIRECTION OF THE FEDERAL COURT OF APPEAL OR THE SUPREME COURT OF CANADA

- 1) Where a Court directs the re-opening of an appeal previously disposed of by the IAB, the Manager of the responsible Appeals Office will:
 - a) forthwith serve a "Notice of Re-opened Appeal" and certified copy of the Court order on the person concerned and on his counsel if applicable;
 - b) within five days of service, file three copies of the Notice and Court order on the Board (IABR 41);
 - c) send a copy of the Notice and Court order to the Chief, Appeals and Litigation;
 - d) ensure that the Minister is appropriately represented at the re-opened hearing by an appeals officer or justice officer and that instructions are given and relevant material is available.
- 2) The Department/Commission will initiate the re-opening (when directed) whether or not it is to our advantage unless the other party acts first.

12.68 SPECIAL PROCEDURES FOR HANDICAPPED APPELLANTS

- 1) Where a person, because of his age, physical or mental condition, or other similar reason is unable to serve a Notice of Appeal on his own behalf, an adjudicator or immigration officer will accept a Notice of Appeal, signed on the person's behalf by the guardian or by the responsible parent, or by an official of the institution in which the appellant is receiving care or treatment.
- 2) In the event that no such individual is available, an immigration officer may enter the appeal on behalf of the person.



12.69 REQUEST FOR REASONS

- 1) Reasons will normally be required in "Allowed" decisions where the Board's motives for the decision are not readily apparent and may affect the processing of similar cases in the future, or if it may be necessary to challenge the Board's interpretation in court.
- 2) If required, the Manager of the responsible Appeals Office will file a written "Request for Reasons" with the Board ("A" IABR 40).

12.70 MOTIONS TO THE IMMIGRATION APPEAL BOARD ("A" IABR 17-22)

- 1) If an immigration officer is served with a "Notice of Motion", the officer will:
 - a) inform the person concerned it is his responsibility to file the original Notice with the Board;
 - b) immediately send copies of the Notice and all accompanying material to the Manager, Appeals Office and to the Chief, Appeals and Litigation;
 - c) defer removal, where applicable, in accordance with guidelines (see IE 14.11) pending disposition of the motion.
- 2) Various grounds may be used for filing a motion. The most common are new evidence not previously presented, to argue right to appeal when this is contested, or acceptance of a Notice of Appeal after the time limit for filing has expired.
- 3) If the Notice is not presented but the officer is satisfied with assurances that it will be filed in the immediate future, short delays in removal proceedings may be granted.
- 4) If the person is described in A19(1)(g), a Notice of Motion will not delay removal. Repetitious, groundless motions obviously aimed at forestalling removal will also be disregarded following advice from the Manager, Appeals Office (see IE 14 for details).
- 5) Upon receipt of a Notice of Motion, the responsible appeals officer will:
 - a) verify that the Notice has been filed with the Board;
 - b) verify that the Chief, Appeals and Litigation has a copy of the Notice;
 - c) obtain transcript and reasons of Board, if applicable and required;
 - d) obtain additional material that may be necessary;
 - e) verify that removal proceedings, if applicable, have been suspended.



- 6) The appeals officer representing the Minister at the motion hearing will:
 - a) immediately provide a report to the Chief, Appeals and Litigation concerning the hearing;
 - b) ensure that a copy of the Board's decision reaches the field office and provide functional guidance if necessary.
- 7) If the Board dismisses the motion, the field will automatically reactivate suspended removal proceedings.
- 8) If the Board allows the motion and a further hearing before the Board follows, the procedure in 12.87 will again apply.

12.71 - 12.78 SPARES

12.79 APPEAL BOARD CASES REFERRED TO JUSTICE OFFICERS

Managers will immediately notify the Chief, Appeals and Litigation of each case assigned to a justice officer and of the legal issues involved. This will allow for consideration at NHQ and possible referral to the General Counsel, Legal Services, for his views.

12.80 COURT ACTIONS - SERVICES

All Officers accepting service of a copy of any originating notice of Court actions on behalf of the Minister of Employment and Immigration will immediately send a copy of the Notice, including any accompanying material, to the Chief, Appeals and Litigation Division. The face of the copy must identify the Officer, the date received and the office location.

12.81 APPLICATIONS BY THE PERSON TO THE FEDERAL COURT FOR REVIEW OF AN ADJUDICATOR'S DECISION

- 1) When an immigration officer or adjudicator is presented with proof that an application pursuant to section 28 of the Federal Court Act has been filed with the Federal Court of Appeal concerning an order or decision made by him, he will:
 - a) as soon as possible, forward seven certified copies of documentation related to the Court action, including all exhibits, to the Clerk of Process of the appropriate Court;
 - b) send one copy of the documentation to the Chief, Appeals and Litigation - Attention: Litigation Officer;
 - c) send one copy of the documentation to the Director, Adjudication Branch.
- 12.81.1 If a delay in distribution of more than several days is anticipated, advise the Chief, Appeals and Litigation Division of the reason for delay and the anticipated period of time involved.



- 2) Proof of filing may reach the office concerned through receipt of a copy of the application from counsel for the applicant on which the Federal Court's "Received" stamp has been inserted or, alternatively, in the form of a telex from the Chief, Appeals and Litigation, who has been notified by the Court's Clerk of Process of the receipt of the application. In either of these two cases, the officer should immediately proceed with preparation of documentation as time is of the essence. The officer, however, should not act if he is presented with an application on which the Federal Court's "Received" stamp does not appear and where no confirming telex is received from NHQ.
- 3) Applications for extensions of time within which to file an application for review do not require preparation of case material until the extension is granted.
- 4) The majority of section 28 applications are filed against removal orders. However, attempts are occasionally made to file section 28 applications against other decisions by immigration officials as well. In such cases, the Officer concerned may contact the office of the Chief, Appeals and Litigation with respect to the material to be provided, or seek advice if the application appears frivolous.
- 5) With respect to section 28 applications, there are five locations in Canada where the Court maintains permanent offices. Applications may be filed at: Ottawa, Toronto, Montreal, Vancouver and Halifax. The officer concerned will identify the appropriate registry from the Court's "Received" stamp. Alternatively, the telex from the Chief, Appeals and Litigation will contain this information. In case of doubt, the Record should be sent to:

The Clerk of Process,
Federal Court of Canada,
Supreme Court Building,
Wellington Street,
OTTAWA, K1A 0H9.

12.82 APPEALS TO THE COURTS FROM BOARD DECISIONS BY PERSON CONCERNED (A84)

- 1) The immigration officer who is served with a copy of a Notice seeking leave to appeal pursuant to A84 to the Federal Court of Appeal, or to the Supreme Court pursuant to FCA 31, will:
 - a) if proof of filing is not presented, immediately inform the person concerned that it is his responsibility to file the original Notice with the Court's Registrar within the time limit stipulated in the Act and in the format prescribed by the Court;
 - b) immediately forward copies of the Notice and all accompanying material to the Chief, Appeals and Litigation and to the Manager of the Appeals Office responsible for the area (see 12.80);
 - c) defer removal where applicable (A51(1)(c) and (d)), unless A19(1)(g) is substantiated by the adjudicator and is a ground cited in the removal order.



- 2) See 12.39 and 12.40 in case of doubt as to acceptability of a Notice of Appeal.
- 3) Upon receipt of a Notice seeking leave to appeal, the Manager of the applicable Appeals Office will immediately notify his usual point of contact with the Department of Justice in the Region and provide him with:
 - a) a copy of the Notice seeking leave to appeal and all accompanying material;
 - b) the entire file of the Appeals Office concerning the case;
 - c) any other material obtained from field office(s) which is required for proper disposition of the case.
- 4) In providing the Appeals Office's file to the justice officer assigned, it is advisable to retain copies of a few key documents on a skeleton file in case the material sent becomes misplaced or questions concerning the case are subsequently directed to the Appeals Office.
- 5) Upon transfer of the Notice and material, the responsibility for pursuing the appeal on behalf of the Minister is transferred to the justice officer assigned. Nevertheless, the Manager of the appropriate Appeals Office has a residual responsibility for assuring that the case is processed on the Minister's behalf without undue delay.

12.83 APPEALS BY THE MINISTER TO THE FEDERAL COURT OF APPEAL FROM APPEAL BOARD DECISIONS (A84)

Because the decisions of the IAB serve as legal precedents and constitute an important source of law, it is essential that consideration be given to the possibility of an appeal by the Minister where the Board has allowed an appeal on what are considered to be erroneous legal grounds. A84 requires that the application for leave to appeal be filed with the Court within 15 days after the Board's decision. Although an extension of time may sometimes be granted for special reasons, the Federal Court of Appeal has held that the absence of the Board's reasons for judgment is not a proper reason for extending the time. Therefore, when the Board allows an appeal before issuing reasons, the appeals officer who represented the Minister must endeavour to identify the probable grounds on which the Board allowed the appeal, and he should immediately notify the Chief, Appeals and Litigation by telex or telephone. The Chief will then consult with the General Counsel of Legal Services to determine whether an appeal should be launched.

12.84 PREROGATIVE WRITS

- 1) The immigration officer or adjudicator who is served with an Application for a prerogative Writ (Habeas Corpus, Mandamus or Prohibition) will:
 - a) unless proof of filing is indicated on the document, immediately inform the person concerned or his solicitor that the Application can only be recognized and acted upon when proof of filing is presented;



b) Immediately forward copies of the applications (Ref. 12.80) and, as applicable, a covering memorandum from the Immigration Officer giving case detail, or transcript of the Inquiry from the Adjudicator, to:

- i) the appropriate Regional Department of Justice office;
- ii) the Chief, Appeals and Litigation, who will, if necessary, issue instructions through the Office of the General Counsel, Legal Services;
- iii) the applicable Manager, Appeals Office, (see Appendix "B"), where there is an outstanding matter before the IAB; and
- iv) the Regional Director or Chief, Enforcement.

2) Applications for prerogative Writs must be filed directly with the Courts. Unless the person concerned or his solicitor presents proof that this has been done, for our purposes, the application does not exist.

3) Proof of filing is the official stamp of the Court on the application.

4) Any such application will be considered "Urgent".

5) a) Region/CIC will provide the Justice Officer with documents necessary to the Court actions.

b) Appeals Offices will play a peripheral role related to current matters before the IAB and the provision of guidance and opinion when called upon.

12.85 OTHER PROCEEDINGS - SAB AND CITIZENSHIP CLAIMS

1) The Special Advisory Board (SAB)

Although this Board operates under the authority of the Immigration Act (A40 to A42), proceedings in these cases are initiated and pursued by the Minister and the Solicitor General. Officials of the Department/Commission at the field level are not involved.

2) Disposition of Citizenship Claims

Claims to Canadian citizenship by individuals faced with proceedings under the Immigration Act are adjudicated by the Department of the Secretary of State responsible for citizenship through an evaluation of the grounds invoked under the Citizenship Act. Other than effecting the initial referral (A43(2)), officials of the Department/Commission are not actively involved in this process.



12.86 COMMUNICATION WITH BOARD AND COURT OFFICIALS

- 1) Except in the circumstances outlined in 2) below, field officers of the Commission will not communicate directly with the Board and Court officials but will channel communications through the appeals or justice officers assigned to the individual cases.
- 2) The following items will be sent to the appropriate authorities directly:
 - a) "Notices of Appeal" and "Applications" to the IAB served on officers, where service is authorized under the IAB Rules;
 - b) "Records" of proceedings under the Immigration Act which relate to Notice of Applications filed with judicial bodies directly from decisions of immigration officials;
 - c) Notices of change of address received from appellants before the IAB;
 - d) Notices of withdrawal of appeal to the IAB.
- + 3) As a normal rule, the person preparing and certifying records as complete from original documents, or the best copies available, should be charged with the responsibility of providing more legible or missing material to the adjudicating body as required and where available. Consequently, officers preparing records should indicate their name, official capacity, location and telephone number to the adjudicating body for ease of reference. While (in the larger regions) the Board frequently deals with appeals officers who act as Immigration officers for the purposes of preparing appeal records, in other instances appeals officers may have had no direct involvement with the original records and be subject to the record which is provided. As a result, requests made directly to the person responsible for preparing the record would appear most practical and efficient.
- 4) The "Record" in appeals to the IAB from removal orders will have attached an "Appeal Summary" (see Appendix "G"). "Records" to the Federal Court or other tribunals will have attached brief covering letters (see Appendix "H").
- 5) In all communications with these authorities, officers will ensure that the information provided is accurate and that no personal comments, observations or opinions are included or any submission made. Where officers feel it is necessary to add information explaining, for example, a delay in service or delivery of documents, a copy of the covering letter must be forwarded to the applicant and his counsel.
- 6) In case of doubt as to whether to send a particular document directly, advice should be sought from the Manager, Appeals Office.



12.87 USE OF STICKERS AND STAMPS

- 1) The adjudicator will ensure that the original and all copies of appeal "Records" prepared by him will bear on the front page, as applicable when the record is prepared, large stamp impressions in red, marked:
 - a) "APPEAL - URGENT" and on copies "CERTIFIED TRUE COPY"; and
 - b) "MAINTAINED AT PUBLIC EXPENSE".
- 2) Immigration officers and adjudicators forwarding notices of court actions to the Chief, Appeals and Litigation, will ensure the front page has a large stamp impression in red "LITIGATION - URGENT".
- 3) If the appellant is detained under the Immigration Act when the Record is distributed, the original and all copies will have a "DETAINED" sticker on the front page.
- 4) If an appellant from contiguous territory has been removed pursuant to A51(1) pending appeal, the original and all copies of the Record will have a "REMOVED" sticker on the front page.

12.88 COOPERATION WITH APPEALS OFFICERS

- 1) Appeals officers requiring information or documents for appeal hearings in addition to what is contained in the "Record" will make a request to the field offices concerned. Justice officers will channel such requests to the field through the appropriate Appeals Offices. Officers who follow up the requests in the field will bear in mind that the material required must reach the appeals or justice officer, if at all possible, in time to allow notice to the other party prior to the hearing. The Board requires this notice where presentation of new documents or the invoking of new grounds is sought ("A" IABR 37).
- 2) Where an officer in Canada or overseas becomes aware of new information such as marriage, childbirth, hospitalization, criminal conviction, or becoming a public charge, re. an appellant, he will immediately forward this information with appropriate documentation to the applicable Appeals Office with a copy to the Chief, Appeals and Litigation. Immigration officers, however, should not approach appellants while their appeals are outstanding to seek adverse information or evidence against them which may be presented at their appeal hearing.
- 3) Information and documents must be submitted in a form suitable for presentation to the appropriate forum. Whether or not the person may be called as a witness, an officer who interviews a person regarding an appellant should attempt to secure an affidavit or statutory declaration from the person interviewed, in which the information given is clearly stated. If this is not possible, the interviewing officer should prepare an affidavit or statutory declaration himself recording information given to



him, or identifying documents received by him provided the information was not given in confidence. Such affidavits should contain facts only and not the opinion, comments or conclusions of the officer, and should clearly indicate that the officer signing them is an immigration officer.

- 4) Where documents referred to above are obtained from police authorities, welfare agencies, etc., the officer who forwards them to the Appeals Office will state whether the source authorities have consented to the release of the information to the applicable judicial forum. It must be remembered that the releasing of documents or information to judicial authorities has the effect of those documents or that information becoming public knowledge. Persons supplying documents should be made aware that all documents presented to the Board are also provided to the appellant and his counsel in addition to becoming part of the public record.



12.89 LIAISON WITH THE CHIEF, APPEALS AND LITIGATION

- * 1) The Chief, Appeals and Litigation, Operations Branch, has primary responsibility for coordinating the Department's appeal program and giving functional direction to appeals officers and determining the position to be taken by justice officers representing the Minister in judicial proceedings. On occasion, the instructions may originate with any one of a number of delegated senior departmental authorities at NHQ but these instructions will invariably be passed on the Minister's behalf through the Chief, Appeals and Litigation, to avoid conflict in instructions and to provide for accountability within a clearly defined chain of command.
- 2) Feedback to senior management of the Department/Commission regarding the appeals process in general as well as information in individual appeal cases, will similarly be channeled through the Chief, Appeals and Litigation.
- 3) The Chief, Appeals and Litigation is responsible for ensuring the consistent application of the appeals program in the various regions. Accordingly, the Regional authorities interested in appeals both within the Department/Commission and the Department of Justice, will effect liaison with NHQ regarding appeal matters through the Chief, Appeals and Litigation. Managers of Appeals Offices as well as individual appeals and justice officers will utilize equally the Chief, Appeals and Litigation to effect liaison with senior departmental officials regarding the appeals process.
- 4) In addition, the Chief, Appeals and Litigation is responsible for the systematic gathering and disseminating of statistical information vital for monitoring the appeal program. To facilitate this task, field officers, appeals officers and justice officers will inform the Chief, Appeals and Litigation of all appeals and Court actions commenced and advise him of developments on request.
- 5) Officers sending correspondence or other material to the Appeal Board or Courts, or to other official bodies on matters related to an appeal or litigation matter (excluding prosecutions) will ensure that the Chief, Appeals and Litigation Division, Operations Branch, NHQ is provided with copies in all cases. If relevant material is received from such authorities, officers will also ensure that the Chief is, or has been, provided with a copy.
- * 6) The Appeals and Litigation Division maintains a card index (IMM 1350) of relevant information.

12.90 ROLE OF THE DEPARTMENT OF JUSTICE

- 1) Because of the desirability of uniformity of legal advice and the need to keep senior officials of the Commission informed of new or unexpected issues arising, the General Counsel, Legal Services, Ottawa, must be the primary source of legal advice to the Commission. On the other hand, it is



recognized that the need for incidental legal advice in particular cases sometimes arises in the regional offices of the Commission. In such cases, regional officials may seek advice from the local office of the Department of Justice. Where significant or sensitive legal or policy issues are involved, however, a legal opinion from the General Counsel, Legal Services should be sought through the applicable Director General at NHQ.

- 2) In all cases before the IAB and Courts, excluding those involving prosecution, advice from the General Counsel, Legal Services, will be sought through the Chief, Appeals and Litigation.
- 3) With respect to appeals before the IAB, appeals officers may discuss legal issues with the local justice officer but will seek advice from the General Counsel, Legal Services as in 2) above on significant or particularly contentious issues. In important or difficult cases, Managers of Appeals Offices should consider requesting the local justice officer or the General Counsel, Legal Services to represent the Minister before the Board.
- 4) With respect to litigation in the Federal Court, officers of the Department of Justice have been requested to oppose all applications as a matter of course. Where it appears, however, that the removal order cannot be supported, it may be necessary to discuss the possibility of asking the Court to set it aside. Difficult issues might also arise during litigation on which it may be necessary to take a position before the Court. In such cases, there will be advance consultation between the lawyer representing the Minister, the General Counsel, Legal Services, the Chief, Appeals and Litigation, and such other senior officials at NHQ as are necessary in the circumstances.

12.91 GENERAL

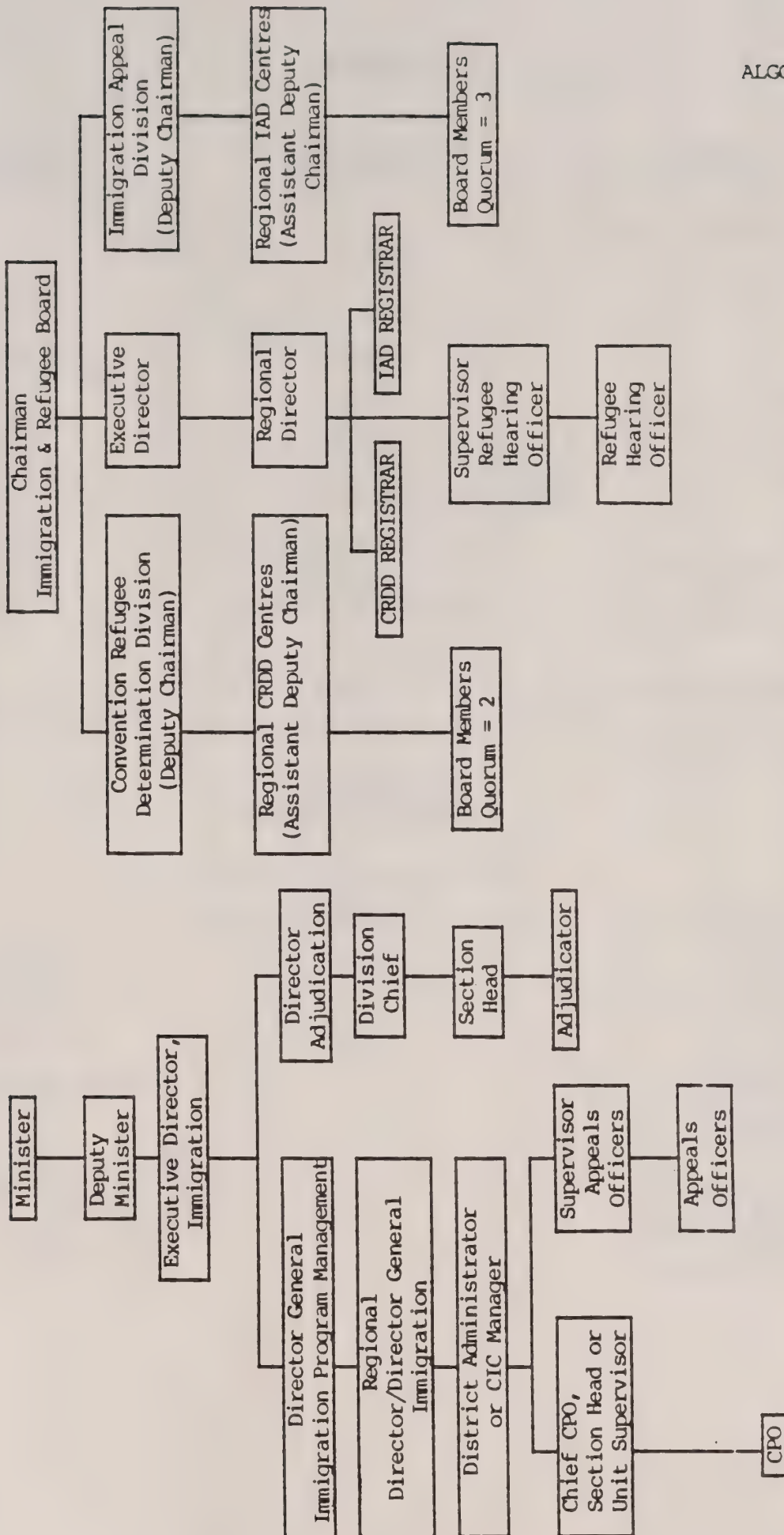
- 1) The responsible Appeals Office is that office responsible for the applicable geographic area shown in Appendices "A" and "B". In the Region, it is the point of liaison between the field office, justice officers and the Board with respect to appeals and litigation, excluding prosecutions.
- 2) Field officers should not communicate directly with the Board except to carry out their responsibilities under the Board's rules.
- 3) Informing the Appeals Office concerned of additional information arising after an appeal is entered is essential since the information could affect the Minister's submission on the Board's discretionary considerations.
- 4) If a change of address involves transferring the file to another office, the applicable Appeals Office will be advised of the file transfer.



- 5) a) Where there is reference in Statute to a number of days between two events, in calculating the number of days, there shall be excluded the day on which the first event happened and there shall be included the day on which the second event happened.
- b) Where the time limit for the performance of a required action expires or falls on a holiday, the action may be performed on the next work day after the holiday. (Saturdays are not holidays unless declared as such.)

12.92 - ON...SPARES

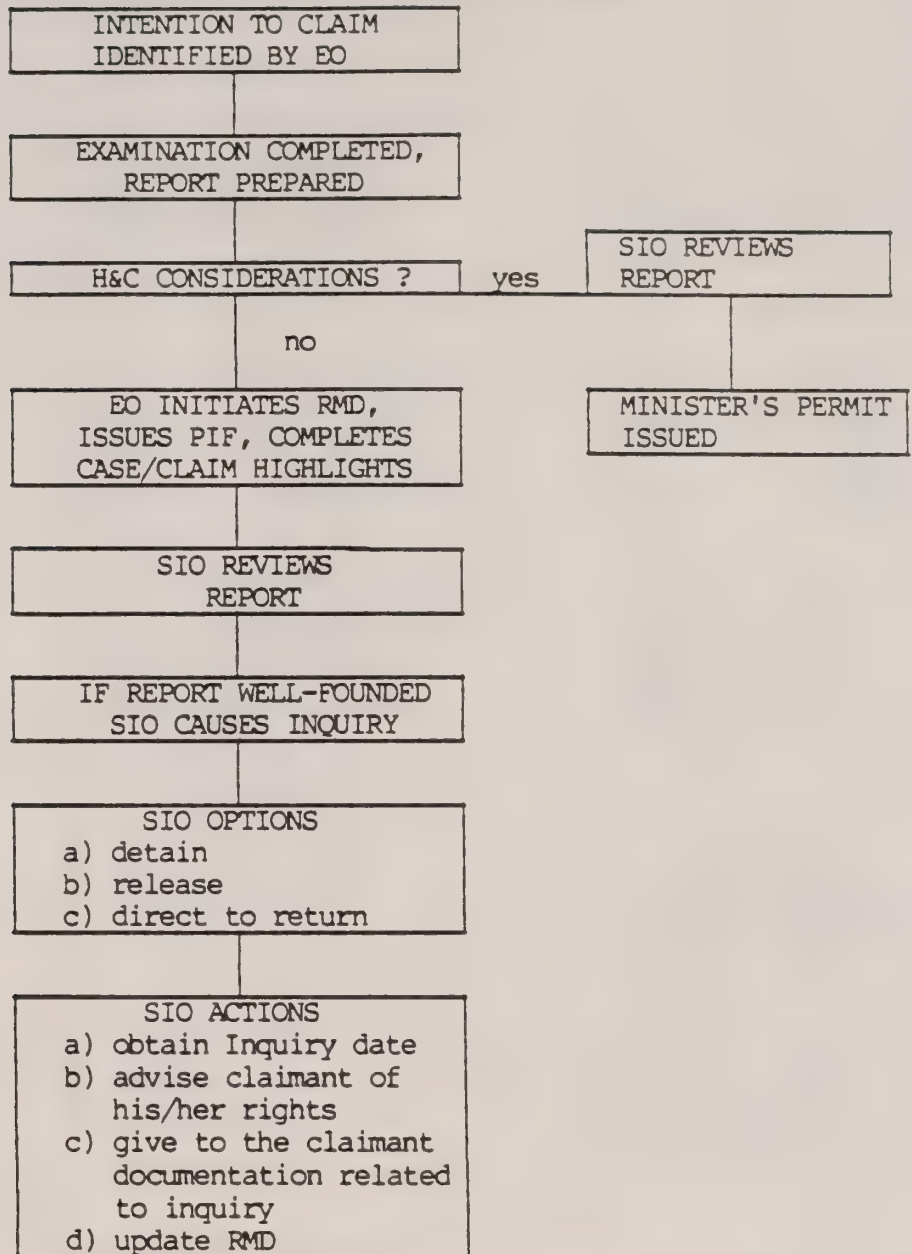
FUNCTIONAL GUIDANCE







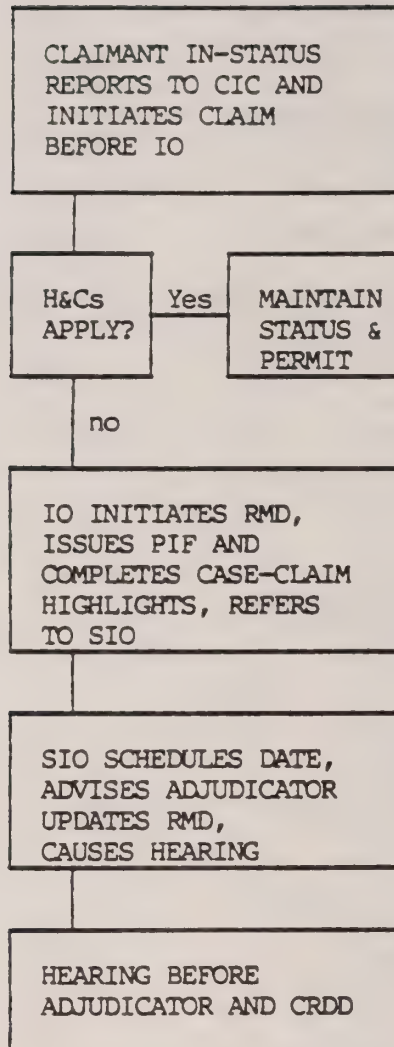
PROCESSING A CLAIM INITIATED AFTER A 20 REPORT OR A 104 ARREST



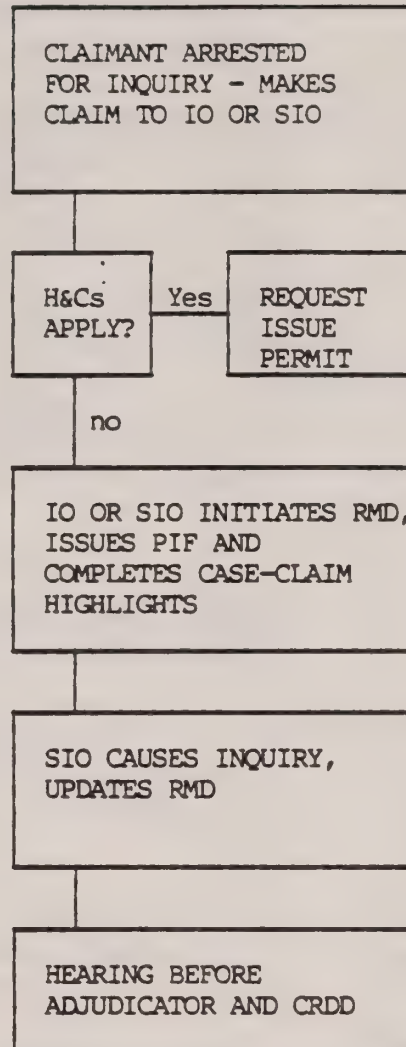


PROCESSING A CLAIM INLAND - 27 AND 103 REPORT

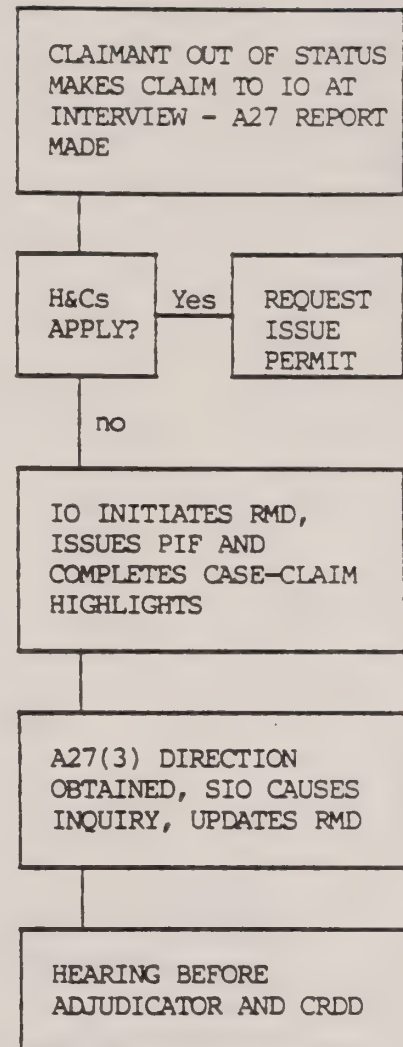
(1)



(2)

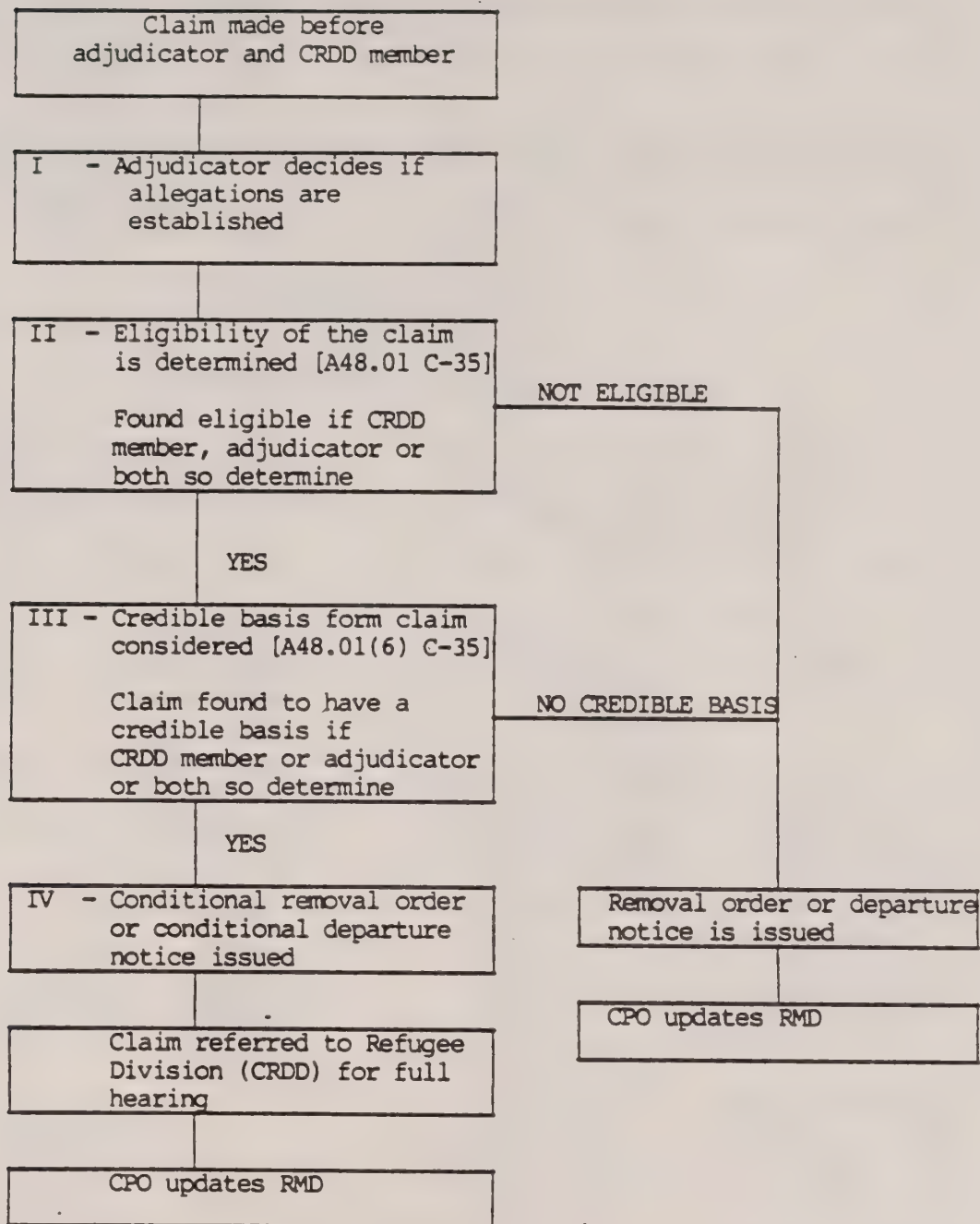


(3)



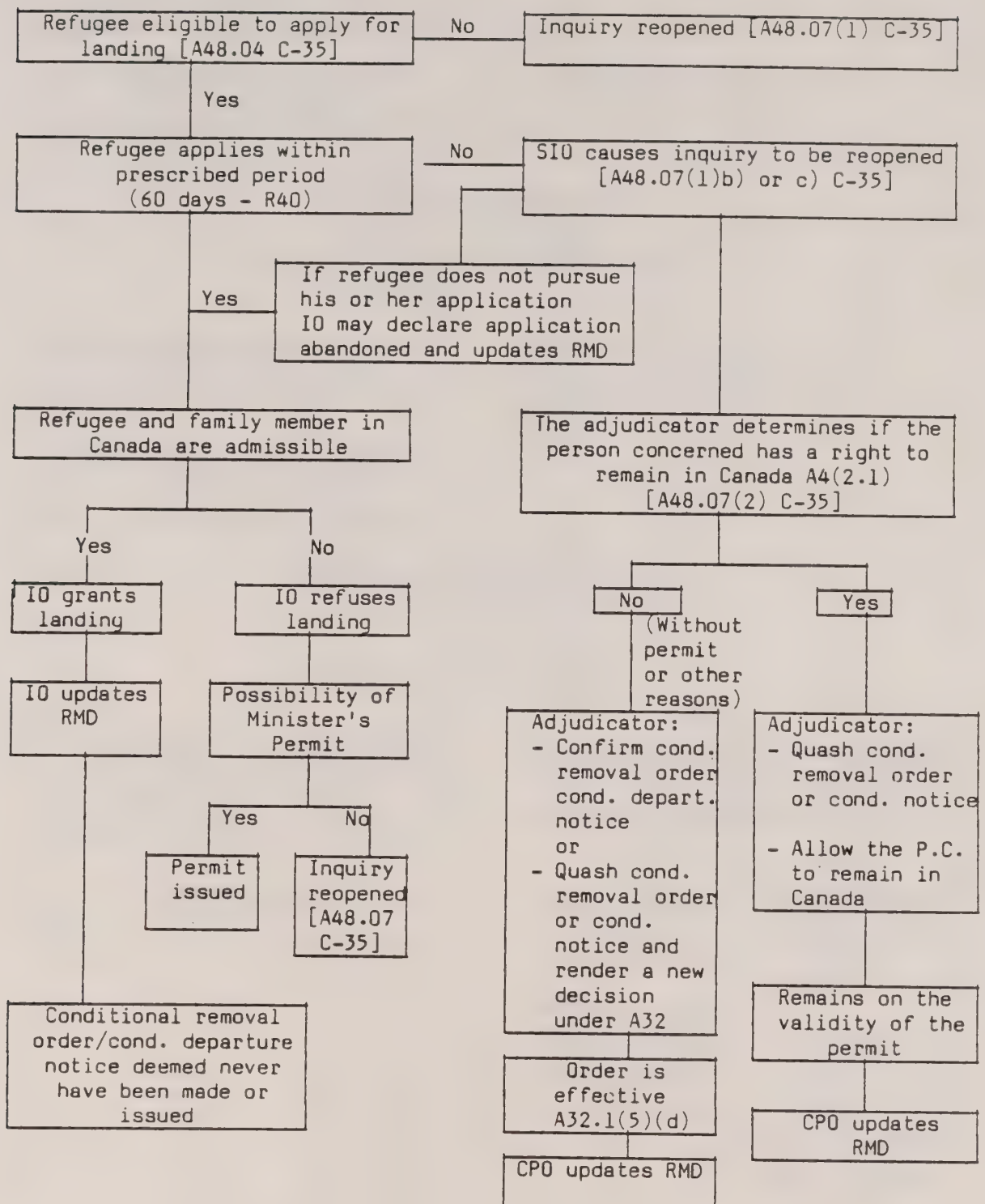


INQUIRY BEFORE ADJUDICATOR AND CRDD MEMBER



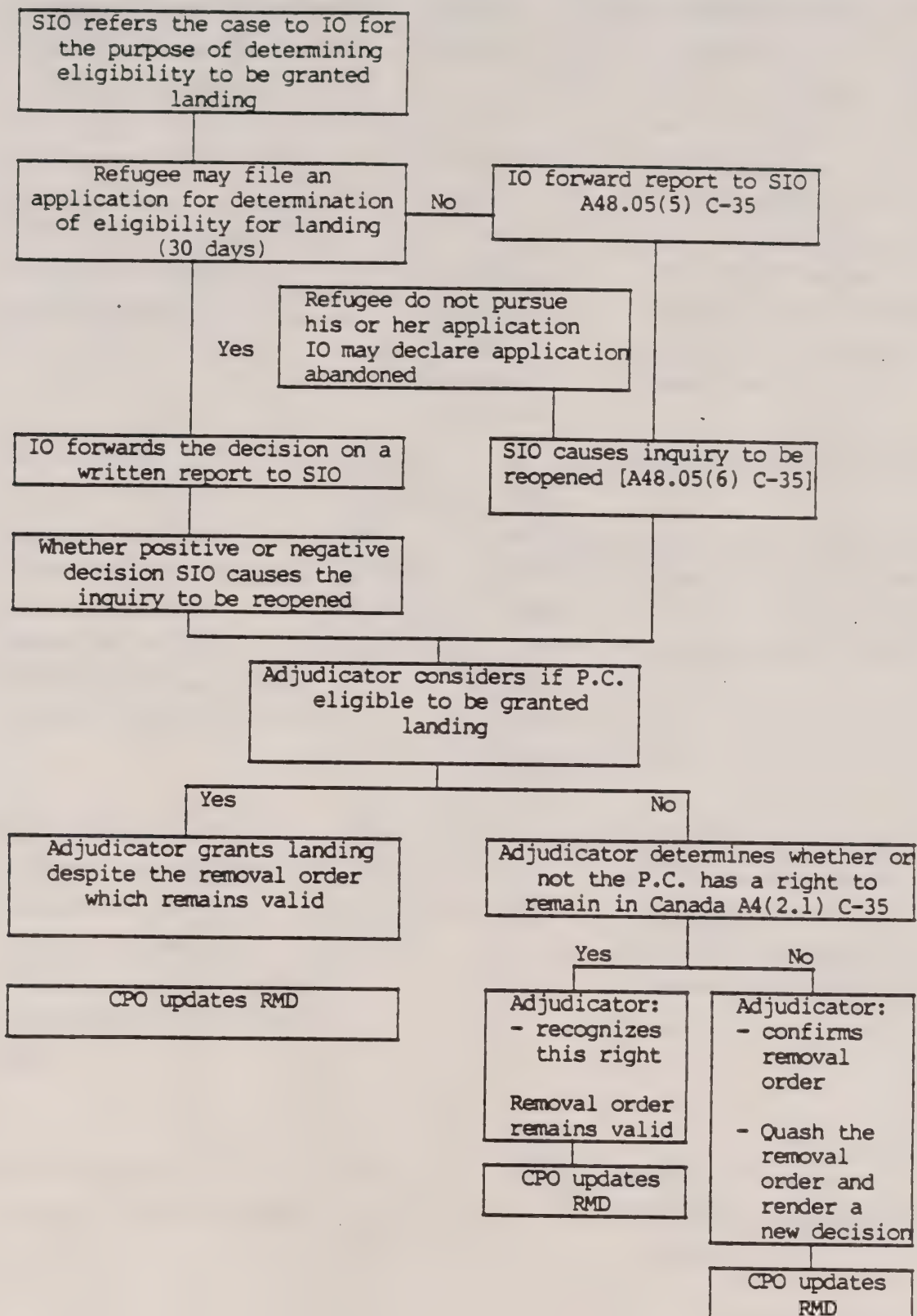


LANDING GRANTED BY IO [A48.04 C-35]





LANDING IN CANADA OF CONVENTION REFUGEE BY AN ADJUDICATOR [A48.05(6) C-35]





EFFECTIVE REMOVAL ORDER

- did not claim refugee status
- claimed but is not eligible or no credible basis

If no right of appeal then
has right to apply for
judicial review

where
applicable

If P.C.

files

18/28

(FCA) for

JUDICIAL

REVIEW

STAYED

72 HOURS

COND. REMOVAL ORDER

NOT EFFECTIVE UNLESS [A32.1(5)]

- withdrawal
- no right to remain A4(2.1) - A48.07(2) C-35
- abandonment
- "finally determined" i.e. decision CRDD/FCA/ SCC or application for leave to appeal dismissed or leave not made within prescribed time

RIGHT OF APPEAL [72(1) C-35] STAYED

to appeal division:

24 HOURS

- permanent resident

OR @

- holder valid returning

DECISION

resident permit

[51(1)(a)]

- Convention refugee

(c) C-35]

- visitor with visa (R.20)

immigrant with visa (R.20)

NO RIGHT OF APPEAL [83.3 C-35]

STAY

BECAUSE except if refused by CRDD

REMOVAL because no credible basis

ORDER [83.3(1.1) C-35] (has then

IS NOT right to judicial review)

YET

EFFECTIVE

[32.1(5) C-35]

RIGHT OF APPEAL [84 C-35] .. STAYED @

to Federal Court of Appeal: DECISION

- 15 days for leave to

[51(1)(d)]

commence proceeding

C-35]

- 15 days to commence the

proceeding if granting of

leave

to Federal Court of Appeal:

- 15 days for leave to

commence proceeding

- 15 days to commence the

proceeding if granting of

leave

RIGHT OF APPEAL

(idem)

to Supreme Court of Canada

[51(1)(e)]

- on leave

C-35]

(idem)

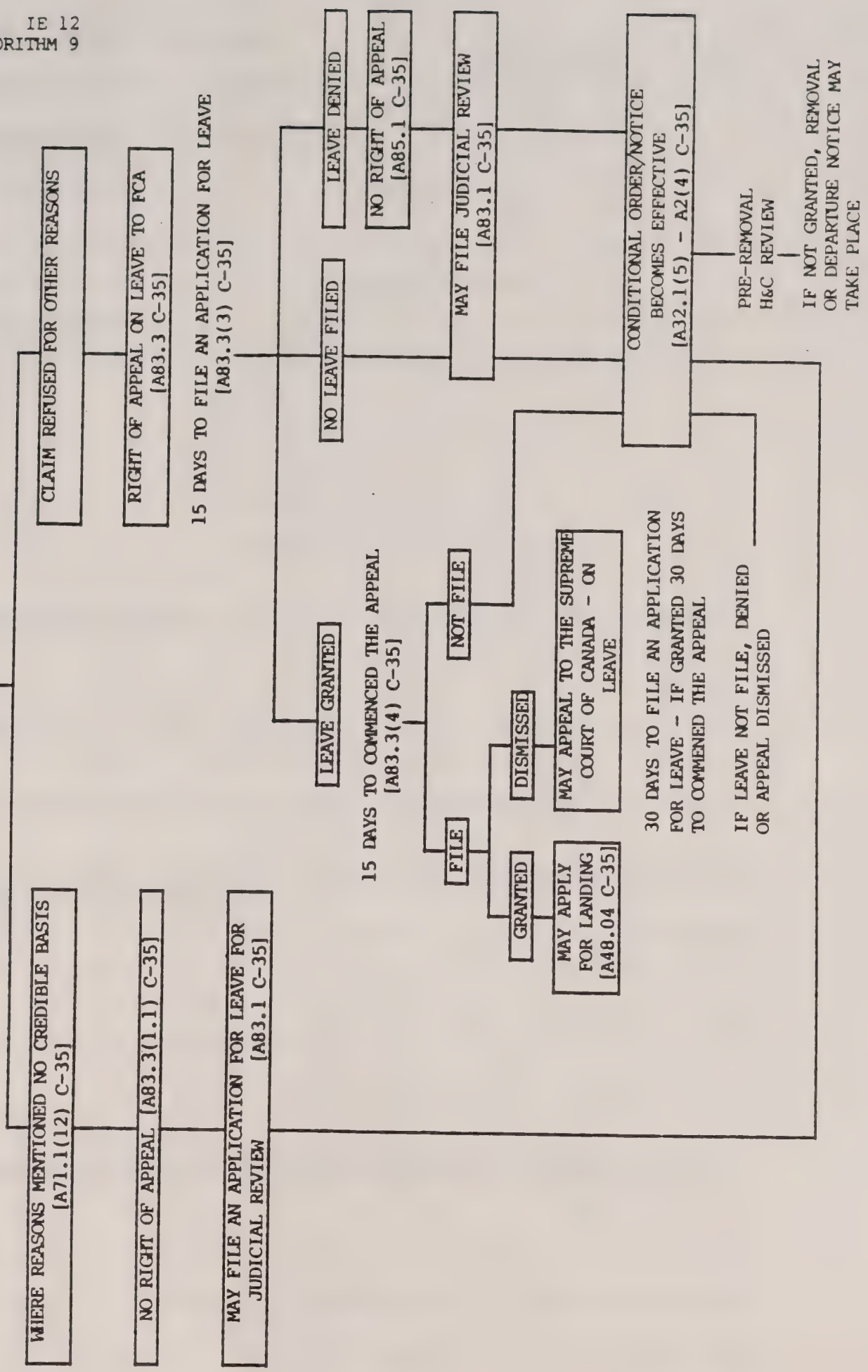
RIGHT OF APPEAL

to Supreme Court of Canada

- on leave

DECISION OF CRDO NEGATIVE

WRITTEN DECISION AND REASONS
SENT BY CRDO TO P.C.
[A70.1(1) C-35]





A - IDENTITY

1. Name _____ Client I.O. # _____ 2. Date of Birth _____

B - CITIZENSHIP / RESIDENCE

3. Country of Birth _____ Citizenship _____

4. (a) Citizenship of any other country ☐ Yes ☐ No (b) Permanent residence in any other country ☐ Yes ☐ No

If yes (to a or b), provide details, including dates: _____

5. Has valid passport / travel document? ☐ Yes ☐ No 6. Refugee status claimed against what country? _____

C - TRAVEL TO CANADA (POE only)

7. (a) Complete the following, starting with the country listed in 6 above, and the last date of departure from that country.

Country	Date of Arrival	Date of Departure	Status
1. _____	N/A	_____	_____
2. _____	_____	_____	_____
3. _____	_____	_____	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____

(b) Was departure from country named in question 6 illegal? ☐ Yes ☐ No If yes, provide details: _____

D - PREVIOUS VISITS / REFUGEE CLAIMS

8. (a) Has person been to Canada previously? ☐ Yes ☐ No If yes, provide details including dates of entry and departure: _____

(b) If departure notice was issued was subject admitted to another country? ☐ Yes ☐ No

9. (a) Has person applied in the past for recognition as a refugee by Canada or any other country? ☐ Yes ☐ No If yes, provide details including dates / dispositions: _____

(b) If the answer to question 9(a) is yes, was person issued a travel document by that country (or the United Nations High Commission for Refugees)? ☐ Yes ☐ No If yes, where is the document? _____ Is it still valid? ☐ Yes ☐ No

Does the document entitle the person to return to that country? ☐ Yes ☐ No What country? _____

E - CURRENT CLAIM TO CONVENTION REFUGEE STATUS

10. What is the basis for the claim to refugee status? Describe briefly. _____

11. Is person wanted by police / government authorities / military (etc.) in ANY country? ☐ Yes ☐ No If yes, give details: _____

F - CRIMINALITY

12. Has person ever been convicted of a criminal offence? ☐ Yes ☐ No If yes, give details: _____

G - IMMIGRATION OFFICERS COMMENTS (CONCERNS OF I.O. ON TRUTHFULNESS OR ACCURACY OF INFORMATION PROVIDED BY CLAIMANT)



PERSONAL INFORMATION FORM FOR PEOPLE CLAIMING CONVENTION REFUGEE STATUS

Instructions

The purpose of this form is to inform the Immigration and Refugee Board about your claim to Convention refugee status.

The confidentiality of information contained in this document is protected by Federal legislation. The Board must have your written consent before disclosing to the public any of the personal information you have provided.

This form must be completed in English or in French. If you require the services of an interpreter, ensure that the interpreter signs the declaration on page 9.

When you have completed this form, return a copy of it to the Immigration office where your hearing is to be held and take the original and another copy to the adjudicator at your hearing. Keep a copy for your own records.

Answer all questions, marking "N/A" for those that do not apply to you. If there is insufficient space provided to answer questions fully, use the back of the pages.

Give exact details where requested. Please print clearly.

IDENTIFICATION:

1. Family Name _____		Given Names _____	2. Male <input type="checkbox"/> Female <input type="checkbox"/>
3. Give any other name(s) you have used (include family name at birth if different from 1.): _____			
4. Date of Birth: _____ (Day) (Month) (Year)		5. Place and Country of Birth: _____	
6. Citizenship at Birth: _____		7. Present Citizenship: _____	
8. Nationality, Ethnic Group or Tribe _____		9. Religion: _____	
10. If you have no country of citizenship, please name your country of habitual residence: _____			
11. Other country or countries of citizenship: _____			
12. In which country or countries do you fear persecution?: _____			
13. Present Marital Status:		Married or common law spouse <input type="checkbox"/> Divorced or Separated <input type="checkbox"/> Widowed <input type="checkbox"/> Never Married <input type="checkbox"/>	

14. Complete the following information about your married or common law spouse, any children, your parents, brothers, and sisters:

Complete Name	Relationship	Birth-date DD / MM / YY			Citizenship	Place and Country of Residence

SKILLS AND EDUCATION:

15. State the number of years of formal education/training you have had: _____ years

Give the following information:

(From) Month / Year		(To) Month / Year		Name of School Place and Country	Level obtained and/or Degree

16. Work history:

(From) Month / Year		(To) Month / Year		Name of Company/Employer Place and Country	Type of Work

RESIDENCE:

17. List the places and countries where you have resided for the last (10) years, beginning with your last residence:

(From) Month / Year	(To) Month / Year	Place and Country	Status in Country*

* examples: student, temporary worker, permanent resident, citizen, or other status given by the country.

PASSPORT, TRAVEL AND/OR IDENTITY DOCUMENTS:

18. Did you apply for a passport? Yes []
No []

If no, why not? _____

If yes, were you issued a passport? Yes []
No []

If yes, give the following information: Date of issue: _____
Expiry Date: _____
Country of issue: _____
Where was it issued?: _____

19. Did you need an exit visa/permit to leave your country of citizenship or habitual residence? Yes []
No []

If yes, were you issued a visa? Yes []
No []

If yes, give the following information: Date of issue: _____
Expiry Date: _____

20. Did you apply for a Canadian visa to travel to Canada? Yes []
No []

If no, why not? _____

If yes, were you issued a visa? Yes []
No []

If yes, give the following information: Date of issue: _____
Expiry Date: _____
Where was it issued?: _____

21. List any other documents, genuine or false, used to travel from your country of citizenship or habitual residence to Canada:

Document Type	Document Number	Issued by	Date of Issue DD / MM / YY			Date of Expiry DD / MM / YY			Where is the document now?

Indicate with an asterisk (*) any of these documents which were false or not issued in your name.

TRAVEL TO CANADA:

22. List the exact route of your journey to Canada, starting with departure from your country of citizenship or of habitual residence and ending with your departure for Canada:

Country	Methods of Transportation	Date of Departure DD / MM / YY		

23. Place and date of arrival in Canada

_____ (Day) _____ (Month) _____ (Year)

24. When, where and to which official in Canada did you first state your intention to make a refugee claim?

Where: _____ When: _____ (Day) _____ (Month) _____ (Year)

To Whom: _____

25. Have you been to Canada before?

Yes []
No []

If yes, give details as follows:

(From) Month / Year	(To) Month / Year	Purpose

26. Prior to your present journey to Canada, have you travelled outside your country of citizenship or habitual residence within the last five years? Yes []
No []

If yes, give details: _____

MILITARY SERVICE:

27. Is military or other service compulsory in your country of citizenship or habitual residence? Yes []
No []

Draft Age: _____

Length of service required: _____

Were you required to serve? Yes []
No []

If yes, did you serve? Yes []
No []

If yes, did you complete your service? Yes []
No []

Dates of Service: From: _____ To: _____
(Day) (Month) (Year) (Day) (Month) (Year)

If you did not serve or did not complete your service, why not?

POLICE RECORD:

28. Are you, or were you, wanted by the police or military or any other authorities in any country? Yes []
No []

29. Have you ever committed or been convicted of any crime or offence? Yes []
No []

If you answered yes to questions 28 and/or 29, please explain:

PREVIOUS REQUESTS FOR CONVENTION REFUGEE STATUS:

30. Have you previously requested refugee status...

In Canada? Yes []
No []

At a Canadian office abroad? Yes []
No []

In any other country or countries? Yes []
No []

If you answered yes to any of the above, complete the following:

Date DD / MM / YY			Where and of whom?	Result

31. Have you been recognized as a refugee by the United Nations High Commissioner for Refugees? Yes []
No []

If you answered yes, indicate the country in which this recognition was given: _____

Do you have a document confirming this recognition? Yes []
No []

If yes, give the following information: Date of issue: _____
Document Number: _____

32. Have any of your relatives previously requested refugee status...

In Canada? Yes []
No []

At a Canadian office abroad? Yes []
No []

In any other country or countries? Yes []
No []

If you answered yes to any of the above, complete the following:

Name and Relationship	Date DD / MM / YY			Where and of whom?	Result

CURRENT CLAIM TO CONVENTION REFUGEE STATUS:

33. Your claim to a well-founded fear of persecution must be related to one or more of the five (5) grounds cited in the definition of a Convention refugee as contained in the United Nations Convention Relating to the Status of Refugees and Canada's Immigration Act.

Check which ground or grounds apply to your claim.

RACE []

RELIGION []

NATIONALITY []

POLITICAL OPINION []

MEMBERSHIP IN A PARTICULAR SOCIAL GROUP []

Please set out, in point form and in chronological order, the incidents which have caused you to have a fear of persecution and explain why these incidents have caused you to have such fear:

This image shows a single sheet of white paper with horizontal blue or grey ruling lines. The lines are evenly spaced and run across the width of the page. There is no handwriting or other markings on the paper.

POINTS OF CONTACT IN CANADA:

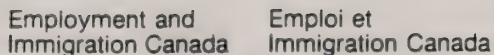
34. Address & telephone no. where you are staying in Canada:	
_____ (No. & Street, Room or Floor, Apt. #)	
_____ (City, Province, Postal Code)	
Telephone: Area Code [] Telephone number []	
You must tell the Board of any change in this address for the purpose of receiving any documents regarding your claim.	
35. Name, address & phone no. of counsel authorized to represent you:	
_____ (Name)	_____ (Firm)
_____ (No. & Street, Room or Floor, Apt. #)	
_____ (City, Province, Postal Code)	
Telephone: Area Code [] Telephone number []	
If there is any change in counsel authorized to represent you, you should tell the Board as soon as possible.	
36. Do you require the services of an interpreter for any proceedings before the Refugee Division?	
	Yes [] No []
Language to be interpreted: _____	

CLAIMANT DECLARATION:

I declare that the information contained herein is true and correct to the best of my knowledge and belief.	
_____ (Date)	_____ (Claimant's Signature)

INTERPRETER DECLARATION:

I _____, hereby certify that I have translated the complete contents of these nine (9) pages and all attached documents to the claimant from the English to the _____ language. He/she has assured me that he/she fully understands the contents of these pages and all attached documents as translated.	
_____ (Date)	_____ (Interpreter's Signature)



IE 12
APP. C

REFUGEE STATUS CLAIM — REVENDICATEUR DU STATUT DE RÉFUGIÉ

To be issued to all persons over 18 years old and to unaccompanied minors
À remettre à toutes les personnes de plus de 18 ans et aux mineurs non accompagnés

File — Dossier
C.I.C. —

Family Name — Nom de famille				Given Names — Prénoms				M	<input type="checkbox"/>	F	<input type="checkbox"/>		
Date of Birth — D-J		M		Y-A		Country of Birth — Pays de naissance			Marital Status — État matrimonial			Citizenship — Citoyenneté	
Date of birth —													
Country of Last Residence — Pays de dernière résidence						Passport Number — Numéro du passeport				Country of Issue — Pays de délivrance			

Accompanying Dependents — Including Common Law Spouse — Attach separate sheet, if necessary
Personnes à charge accompagnant le revendicateur — Y compris le conjoint de droit commun — Joindre une feuille distincte, s'il y a lieu

Family Name <i>Nom de famille</i>	Given Names <i>Prénoms</i>	Relationship <i>Lien de parenté</i>	Date, Place and Country of Birth <i>Date, lieu et pays de naissance</i>	M	—	F
				<input type="checkbox"/>		<input type="checkbox"/>
				<input type="checkbox"/>		<input type="checkbox"/>
				<input type="checkbox"/>		<input type="checkbox"/>
				<input type="checkbox"/>		<input type="checkbox"/>

Date of Arrival Date d'arrivée				D-J				M				Y-A				Port of Entry — Point d'entrée				Province of Destination — Province de destination				Date of Claim Revendication présentée le				D-J				M				Y-A											
Name and Address where you can be reached in Canada Nom et adresse où l'on peut vous rejoindre au Canada																																															
Money in Possession — Argent en votre possession												Present Address in Canada — Adresse actuelle au Canada																																			

[illegible]

NOTICE

The information to be provided on this form is required for the purpose of determining your identity as a refugee status claimant by virtue of the Immigration Act 1976. No decision has been taken with respect to your claim. For more details on uses of the information refer to the Federal Information Bank Index available in Canada at post offices and most libraries.

AVIS

Les renseignements donnés dans le présent formulaire visent à établir votre identité en tant que revendicateur du statut de réfugié en vertu de la Loi sur l'immigration de 1976. Aucune décision n'a encore été prise au sujet de votre revendication. Si vous désirez obtenir des précisions sur l'utilisation de ces renseignements, veuillez consulter le catalogue des Banques fédérales de données que vous trouverez, au Canada, dans les bureaux de poste et la plupart des bibliothèques.

DECLARATION

I, the undersigned, authorize the Canada Employment and Immigration Commission to communicate to the provincial immigration and social welfare authorities the above-mentioned information as well as the results of the subsequent stages in the study of my refugee status claim, so that they can determine my admissibility to their services. I understand that a refusal on my part to sign this declaration will not adversely affect the study of my claim by the Canada Employment and Immigration Commission.

DÉCLARATION

Je, soussigné(e), autorise la Commission de l'emploi et de l'immigration du Canada à communiquer aux autorités provinciales de l'immigration et du bien-être social les renseignements donnés ci-dessus ainsi que les résultats des étapes subséquentes de l'étude de ma revendication du statut de réfugié afin qu'elles puissent déterminer si je suis admissible au bénéfice des services qu'elles offrent. Il m'apparaît qu'un refus de ma part de signer cette déclaration n'aura aucune conséquence défavorable sur l'étude de ma revendication par la Commission de l'emploi et de l'immigration du Canada.

Clement — Revendicateur



U.N.H.C.R.

The following are the representatives of the U.N.H.C.R. in Canada:

1. Rochelle Appleby
Regional Legal Officer
U.N.H.C.R. Legal Project
c/o Immigration and Refugee Board

Suite 1600
800 Burrard Street
Vancouver, British Columbia
V6Z 2J9

Telephone (604) 666-5946
FAX (604) 666-3043

2. Belva Spiel
Regional Legal Officer
U.N.H.C.R. Legal Project
c/o Immigration and Refugee Board

1 Front Street West
5th Floor
Toronto, Ontario
M5J 1A5

Telephone (416) 973-6261
FAX (416) 973-9307

3. Noël St-Pierre
Regional Legal Officer
U.N.H.C.R. Legal Project
c/o Immigration and Refugee Board

Complex Guy Favreau
200 René Lévesque Boulevard West
East Tower, Room 100
Montreal, Quebec
H2Z 1X4

Telephone (514) 496-6444

H.C.N.U.R.

Vous trouverez ci-après la liste des représentants au Canada du H.C.N.U.R. :

1. Rochelle Appleby
Attaché juridique régional
H.C.N.U.R. Projet juridique
a/s La Commission de l'immigration
et du statut de réfugié du
Canada

Suite 1600
800, rue Burrard
Vancouver (Colombie-Britannique)
V6Z 2J9

Téléphone (604) 666-5946
FAX (604) 666-3043

2. Belva Spiel
Attaché juridique régional
H.C.N.U.R. Projet juridique
a/s La Commission de l'immigration
et du statut de réfugié du
Canada

1 ouest, rue Front
5e étage
Toronto (Ontario)
M5J 1A5

Téléphone (416) 973-6261
FAX (416) 973-9307

3. Noël St-Pierre
Attaché juridique régional
H.C.N.U.R. Projet juridique
a/s La Commission de l'immigration
et du statut de réfugié du
Canada

Complexe Guy Favreau
200 ouest, boul. René Lévesque
Tour Est, Pièce 100
Montréal (Québec)
H2Z 1X4

Téléphone (514) 496-6444



OTTAWA/HULL, K1A 0J9

You have been determined to be a Convention refugee under the Immigration Act.

Pursuant to subsection 48.04(1) of the Immigration Act, as enacted by S.C. 1988, ch. 35 you may apply for landing to an immigration officer for yourself and any member of your family who is in Canada at the time of your application. A person is a member of the applicant's family if he or she is

- a) the spouse of the applicant
- b) the unmarried child of the applicant and/or those of the applicant's spouse

Section 40 of the Immigration Regulations states that an application for landing pursuant to A48.04(1) must be made by filing an application for landing with an immigration officer, within 60 days of the applicant having been finally determined to be a Convention refugee. Thus, you must apply on or before _____

_____ unless the Minister files an application for leave to appeal the determination decision. If the Minister does file the time frame will be extended accordingly until the Minister's application is dealt with.

Vous avez été reconnu réfugié au sens de la Convention aux termes de la Loi sur l'immigration.

En vertu du paragraphe 48.04(1) de la Loi sur l'immigration, tel qu'édicte par les L.C. 1988, ch. 35, vous pouvez demander à un agent d'immigration le droit d'établissement pour vous-même et pour tout membre de votre famille qui se trouve au Canada lorsque cette demande est faite. Les personnes suivantes sont membres de la famille du requérant

- a) son conjoint
- b) ses enfants non mariés et ceux de son conjoint

L'article 40 du Règlement sur l'immigration stipule qu'une demande de droit d'établissement selon L48.04(1) doit être déposée auprès d'un agent d'immigration dans les 60 jours suivant la reconnaissance du statut de réfugié au sens de la Convention. A moins que le Ministre dépose une demande d'autorisation d'en appeler de cette décision, vous devez donc soumettre votre demande de droit d'établissement le ou avant le _____. Si le Ministre porte cette décision en appel cette période de temps sera prolongée jusqu'à ce que l'appel soit résolu.



If you do not file your application within the required period of time an Immigration officer will no longer be able to grant you landing in Canada, and if your claim was made at an immigration inquiry, that inquiry will be reopened. Then, if you are lawfully in Canada the adjudicator presiding the reopening of your inquiry will determine if you have a right to remain in Canada. If you are not lawfully in Canada the adjudicator will pronounce against you a notice or an order compelling you to leave Canada.

To apply, please complete the attached "Application for permanent residence" forms and return them to the following address:

If you need further information concerning your application, please contact us at the above-mentioned number.

You are eligible for the full range of Settlement Services available under the Immigration Settlement Adaptation Program (ISAP). Attached you will find a list of offices which provide these services in your area.

Att.

A défaut de présenter votre demande dans le délai ci-haut mentionné, il sera impossible pour un agent d'immigration de vous accorder le droit d'établissement et si vous aviez réclamé le statut de réfugié lors d'une enquête, celle-ci sera réouverte. A cette réouverture d'enquête, l'arbitre qui la préside pourra déterminer si, étant légalement au Canada vous avez un droit à y demeurer. Si vous ne détenez pas une autorisation valide pour demeurer au Canada, l'arbitre pourra alors prononcer contre vous un avis ou ordonnance vous obligeant à quitter le Canada.

Afin de déposer votre demande, veuillez compléter les formulaires "Demande de résidence permanente" ci-joints et les retourner à l'adresse suivante:

Si vous désirez de plus amples informations concernant votre demande, veuillez communiquer avec nous au numéro ci-haut mentionné.

Vous êtes éligibles aux services d'établissement offerts par le Programme d'aide à l'adaptation des immigrants (PAAI). Veuillez trouver ci-joint la liste des organismes offrant ces services dans votre région.

P.j.



OTTAWA/HULL, K1A 0J9

You have been determined to be a Convention refugee under the Immigration Act.

In accordance with subsection 48.05(1) of the Immigration Act, as enacted by S.C. 1988, ch. 35, your case has been referred to an Immigration officer for the purposes of determining your eligibility to be granted landing.

Pursuant to subsection 48.05(2) of the Immigration Act, as enacted by S.C. 1988, ch. 35 you may, within thirty days after being referred apply to an Immigration officer for a determination as to whether yourself and any member of your family who is in Canada at the time your application, is, but for the removal order, eligible to be granted landing. Thus, you must apply on or before _____

unless the Minister files an application for leave to appeal the decision. If the Minister does file, the time frame will be extended accordingly until the Minister's application is dealt with.

A person is a member of the applicant's family if he or she is

- a) the spouse of the applicant
- b) the unmarried child of the applicant and/or those of the applicant's spouse

Vous avez été reconnu réfugié au sens de la Convention aux termes de la Loi sur l'immigration.

En vertu du paragraphe 48.05(1) de la Loi sur l'immigration, tel qu'édicte par les L.C. 1988, ch. 35, votre cas a été déféré à un agent d'immigration afin de déterminer votre admissibilité au droit d'établissement.

En vertu du paragraphe 48.05(2) de la Loi sur l'immigration, tel qu'édicte par les L.C. 1988, ch. 35, vous pouvez dans les trente jours de la date où votre cas est déféré à un agent d'immigration, demander à un tel agent de déterminer si, en l'absence de l'ordonnance de renvoi, vous-même et les membres de votre famille se trouvant au Canada au moment de cette demande êtes admissibles au droit d'établissement. A moins que le Ministre dépose une demande d'autorisation d'en appeler de cette décision, vous devez donc soumettre votre demande de droit d'établissement le ou avant le _____. Si le Ministre porte cette décision en appel cette période de temps sera prolongée jusqu'à ce que l'appel soit résolu.

Les personnes suivantes sont membres de la famille du requérant

- a) son conjoint
- b) ses enfants non mariés et ceux de son conjoint



If you do not file your application within the required period of time an Immigration officer will no longer be able to grant you landing in Canada and if your claim was made at an immigration inquiry, that inquiry will be reopened. Then, if you are lawfully in Canada the adjudicator presiding the reopening of your inquiry will determine if you have a right to remain in Canada. If you are not lawfully in Canada the adjudicator will pronounce against you a notice or an order compelling you to leave Canada.

To apply, please complete the attached "Application for permanent residence" forms and return them to the following address:

If you need further information concerning your application, please contact us at the above-mentioned number.

You are eligible for the full range of Settlement Services available under the Immigration Settlement Adaptation Program (ISAP). Attached you will find a list of offices which provide these services in your area.

A défaut de présenter votre demande dans le délai ci-haut mentionné, il sera impossible pour un agent d'immigration de vous accorder le droit d'établissement et si vous aviez réclamé le statut de réfugié lors d'une enquête, celle dernière sera réouverte. A cette réouverture d'enquête, l'arbitre qui la préside pourra déterminer si, étant légalement au Canada vous avez un droit à y demeurer. Si vous ne détenez pas une autorisation valide pour demeurer au Canada, l'arbitre pourra alors prononcer contre vous un avis ou ordonnance vous obligeant à quitter le Canada.

Afin de déposer votre demande, veuillez compléter les formulaires "Demande de résidence permanente" ci-joints et les retourner à l'adresse suivante:

Si vous désirez de plus amples informations concernant votre demande, veuillez communiquer avec nous au numéro ci-haut mentionné.

Vous êtes éligibles aux services d'établissement offerts par le Programme d'aide à l'adaptation des immigrants (PAAI). Veuillez trouver ci-joint la liste des organismes offrant ces services dans votre région.



(File behind
Divider 13)

TABLE OF CONTENTS

CHAPTER 12 (Please insert this behind divider 13)

APPEALS AND LITIGATION

Paragraph

AUTHORITY

GENERAL INTENT

The Reason for and Effect of Appeal Provisions	12.01
Roles	12.02
Spares	12.03 - 12.04

GUIDELINES

The Immigration Appeal Board	12.05
Interface Between Board and Minister	12.06
The Special Advisory Board	12.07
Appeal Rights of Permanent Residents	12.08
Appeals by Persons Arriving with Valid Visas	12.09
Appeals by the Minister	12.10
Appeal Provisions for Canadian Sponsors of Relatives	12.11
Application for Release from Detention to the IAB	12.12
Spares	12.13 - 12.19
Provisions to Return for Hearing After Removal/Departure	12.20
Rights of Persons Claiming Refugee Protection	12.21
Spare	12.22
Possible Additional Appeal Stages	12.23
Rights of Persons Claiming Canadian Citizenship	12.24
Additional Remedial Opportunities for All Persons	12.25
Appeals Under A84 and Application for Review Pursuant to Section 28 of the Federal Court Act	12.26
Spares	12.27 - 12.35

PROCEDURES

Appeals Against Removal	12.36
Appeals by Minister	12.37
Notification of Appeal	12.38
Disputed Appeal Rights	12.39
Late Filed Appeals	12.40
Spares	12.41 - 12.61

Redetermination of Refugee Claims by Immigration Appeal Board	12.62
Applications to Return for Hearings	12.63
Return to Canada of Appellants	12.64



Paragraph

Withdrawal of Appeals	12.65
Re-opening of an Inquiry by Direction of the IAB	12.66
Re-opening of Appeal by Direction of FCA or Supreme Court of Canada	12.67
Special Procedures for Handicapped Appellants	12.68
Request for Reasons	12.69
Motions to the Immigration Appeal Board	12.70
Spares	12.71 - 12.78
Appeal Board Cases Referred to Justice Officers	12.79
Court Action - Services	12.80
Applications by the Person to the Federal Court for Review of Adjudicator's Decision	12.81
Appeals to Courts from Board Decisions by Person Concerned	12.82
Appeals by the Minister to FCA from IAB Decisions	12.83
Prerogative Writs	12.84
Other Proceedings - SAB and Citizenship Claims	12.85
Communication with Board and Court Officials	12.86
Use of Stickers and Stamps	12.87
Cooperation with Appeals Officers	12.88
Liaison with the Chief, Appeals and Litigation	12.89
Role of the Department of Justice	12.90
General	12.91
On...Spares	12.92

Appendix

Addresses of the Immigration Appeal Board	"A"
Appeals Offices of the Department/Commission	"B"
Partial Text - Sec. 31 - Federal Court Act	"C"
Partial Summary - Supreme Court Decision in Grillas vs Minister, Manpower and Immigration	"D"
Application for Redetermination	"E"
Authorization to Return	"F"
Appeal Summary	"G"
Sample Letter re. Deportation Order	"H"
Sample Notice of Withdrawal	"I"
Partial Text - Sec. 28 - Federal Court Act	"J"
Sec. 18 - Federal Court Act	"K"
Writs, Appeals and Application for Review	"L"



CHAPTER 12

APPEALS AND LITIGATION

AUTHORITY

Immigration Act: 40, 43, 45, 51, 58, 65(3), 70, 72, 73, 74, 75, 76, 77, 79, 80 and 84

Federal Court Act: 18, 28 and 31

Immigration Regulations: 36(4), 40, 41(2)

Immigration Appeal Board Rules

+ Official Languages Act: 3, 5.1, 10(1) and 11.1)

Other: Supreme Court in Grillas (1972 S.C.R. 577).

GENERAL INTENT

12.01 THE REASON FOR AND EFFECT OF APPEAL PROVISIONS

- 1) The Canadian judicial system in general as well as a number of specific provisions in the present legislation provide numerous avenues of redress for individuals who feel aggrieved by the decisions and actions of officials responsible for implementing Canada's immigration program. These appeal provisions constitute the safety valve in the immigrant program. They provide the individuals affected with an opportunity to obtain redress when redress is called for and they expose the administrators of the program to scrutiny.
- 2) An important feature of the appeal rights in the Immigration Act is in the manner and the degree to which compassionate and humanitarian factors may mitigate valid legal action for differing categories of individuals. For example, permanent residents may seek relief based on "all the circumstances", while others are limited to proving "the existence of compassionate or humanitarian considerations". This latter consideration is not available if A39(1) certificate has been issued or the person is described in A19(1)(e), (f) or (g). The legislation specifies the tribunal to which appeals and applications for redetermination of refugee status may be entered and those persons who may appeal and the grounds that may be invoked.
- 3) Generally speaking, the difference in appeal rights reflects the commitment Canada feels toward those persons who have been accepted into its society, or those who have been examined and given visas to come forward and seek admission, and others claiming refugee status who do not fall within the specific definition of Convention refugee but nevertheless may have strong compassionate and humanitarian factors to put forward for consideration. On the other hand, persons in these categories will not have recourse to



special relief if they have chosen to follow a pattern of consistent criminal activity or other activities designed to pose a threat to others in Canada or to threaten the fibre of Canadian society.

12.02 ROLES

- 1) Immigration officials performing statutory functions and reaching decisions as required by law will constantly bear in mind that their actions and decisions may be challenged before the IAB or Courts of Canada.
- 2) Appeals officers, and on occasion justice officers, will represent the Minister before the IAB. Appeals officers will exercise the functions required of the Minister under the Appeal provisions of the Act. Officers of the Department of Justice only will appear before the Courts (see 12.90).
- 3) Functional direction on cases before the Board and positions to be taken before Courts will issue through the office of the Chief, Appeals & Litigation, in liaison where necessary with the General Counsel, Legal Services and senior officials at NHQ (see 12.89).
- 4) The General Counsel, Legal Services, NHQ, has the overall responsibility for legal advice given to the Commission (See 12.90).

12.03 - 12.04 SPARES



GUIDELINES

12.05 THE IMMIGRATION APPEAL BOARD (IAB)

- 1) The IAB is established under the authority of A59. The Board is an administrative tribunal, completely independent of the Department and Commission of Employment and Immigration (the administrative arm of the government with respect to immigration) and its Minister. A court of record, the Board conducts open hearings (A65(2)) on the basis of the adversary system and established judicial principles, rules and precedents. Its decisions may be appealed in the Federal Court of Appeal (A84) and, ultimately, in the Supreme Court (FCA31).
- 2) The Board is endowed with unique discretionary powers which enable it to mitigate, where warranted, the rigidity of legal determinations on the basis of personal factors. Although a court of record, unlike a Court, it has broader powers regarding the admission of evidence; an appeal is a re-hearing and not simply a hearing on the record; it has power to act on humanitarian grounds until the execution of the removal order.

12.06 INTERFACE BETWEEN BOARD AND MINISTER

The Minister of Employment and Immigration is party to all appeals filed with the Board. In most cases, as "Respondent", the Minister takes a position in opposition to that of the appellant re. decisions and actions of immigration officials from which appeals lie to the Board under the provisions of the Act. As "Appellant", the Minister may also file appeals with the Board if formal findings of Departmental Adjudicators require challenging (A73). In all such proceedings, the Minister is represented by "Appeals Officers" before the Board, officials delegated by the Minister to act for him. However, on occasion, officers of the Department of Justice are assigned to provide this representation. Appeals officers and justice officers, representing the Minister in appeal proceedings, present the appeals and take positions in accordance with instructions received from the Minister or delegated senior officials at NHQ. These instructions may relate to an individual case, or be in the form of general policy instructions which must be applied to certain types of cases (see also 12.89).

12.07 THE SPECIAL ADVISORY BOARD

- 1) The operations of this Board, established under A41, should not be confused with the functions of the IAB. It operates in restricted areas where open proceedings are inappropriate because of security aspects. Its proceedings are designed to explore fully, reports on permanent residents by both the Minister and Solicitor General which are based on security or criminal intelligence reports received and considered by them. The person is given the opportunity to testify on his behalf, produce witnesses and evidence, and have counsel. The Board makes its report in such cases to the Governor-in-Council which may make a deportation order from which there is no appeal to the IAB.



- 2) The Special Advisory Board is also independent of the Department/Commission and of its Minister. However, in addition to an adjudicating role in some cases (A40), it has an advisory role vis-à-vis the Minister concerning matters of national security (A42).

12.08 APPEAL RIGHTS OF PERMANENT RESIDENTS

Canada assumes a great commitment toward its permanent residents. Therefore, where the removal of a permanent resident may be effected under A27(1), the person concerned is invariably provided with full appeal rights to the IAB. Permanent residents may present their cases before the Board in a full hearing. To the IAB, they may present arguments against their removal on any ground: legal, humanitarian-compassionate, or any other. The Board must consider all relevant grounds advanced. The sole exception to this rule is appeals before the IAB where a "Certificate" under A83, signed by the Minister and the Solicitor General, is presented indicating that the continued presence in Canada of the appellant is contrary to the national interest. In such cases, the Board's considerations are restricted to legal aspects only.

12.09 APPEALS BY PERSONS ARRIVING WITH VALID VISAS

- 1) The granting of a Canadian visa abroad also creates a certain commitment for Canada. The appeal rights granted to individuals in this category are similar to those granted to permanent residents, but with some important differences. Persons possessing valid Canadian visas may appeal against removal orders on either legal or humanitarian-compassionate grounds, but only if removal proceedings are initiated on arrival (A72(2)(b)). Appeals by persons in this category may be filed with the IAB.
- 2) If national security is involved, as evidenced by an A39(1) certificate, or an adjudicator finds the person to be described in A19(1)(e)(f) or (g), then the person may only appeal on legal grounds attacking the validity of the removal order. The same is true if a certificate under A83 is presented to the Board.

12.10 APPEALS BY THE MINISTER

Where an adjudicator concludes an inquiry with the finding that no removal order or departure notice should be made, the Minister has the right to challenge the decision by an appeal to the IAB. The Board hears these appeals in the normal manner. Both parties have an opportunity to be heard on the legal grounds. If the Minister convinces the Board that a removal order should have been issued, then the person will be able to seek relief from the Board that he might otherwise have been entitled to pursuant to A72.

12.11 APPEAL PROVISIONS FOR CANADIAN SPONSORS OF RELATIVES

- 1) The legislation provides for appeals on form IAB 6 where applications by family class members sponsored by Canadian citizens are refused by immigration officials. Only Canadian citizen sponsors have a right to appeal from the refusal to the IAB.



- 2) Since the Board may direct further processing of an application for landing, it is possible that additional grounds for refusing the application will come to light. This might result in a further appeal on the same application.
- 3) It is the opinion of the Department of Justice that a person under an order of deportation is not sponsorable and, consequently, the sponsor of that person is deprived of the right of appeal.

12.12 APPLICATIONS FOR RELEASE FROM DETENTION TO THE IAB

- 1) Persons detained pending an appeal to the Board or the Federal Court may apply to the IAB for release from detention unless an A39(1) certificate is in evidence (A80 and A39; also 12.61 3)). In disposing of such applications, the Board may consider all factors.
- 2) Applications for release may be served on an immigration officer or filed with the Board at any time while an individual is detained pending an appeal under the Immigration Act. They may even be resubmitted and reflect changes in the detained person's situation.

12.13 - 12.19 SPARES

- * 12.20 PROVISIONS TO RETURN FOR HEARING AFTER REMOVAL OR DEPARTURE (See also IE 14.36)

Persons from territories adjacent to Canada required to leave and await disposition of an appeal outside Canada, or appellants who are either removed or leave pending or prior to appeals before the IAB, may apply to the Board for permission to return to attend their appeal hearings (A77). The Board has wide powers to authorize return in such cases.

12.21 RIGHTS OF PERSONS CLAIMING REFUGEE PROTECTION

- 1) By acceding to the international "Convention and Protocol" relating to the status of refugees (IE 8.01 and 8.02), Canada acquired certain important legal responsibilities toward all persons who, under the definition of the 1951 "Convention" (IE 8.11), may be refugees. The Immigration Act reflects the firm intent to honor the commitments undertaken in this regard (A4(2) and A55). The legislation spells out the legal process by which the legitimacy of an individual's refugee status is to be ascertained and the circumstances under which, notwithstanding a valid refugee claim, an individual may be removed from Canada.
- 2) During an inquiry, a person claiming to be a refugee will have his claim determined by the Minister following an examination under oath and a recommendation from the Refugee Status Advisory Committee.
- 3) If not considered a refugee, the person may seek to have the matter reconsidered by the Appeal Board by applying to the Board for a "redetermination" of the claim (A70(1)). He may subsequently appeal from a removal order to the Board if, notwithstanding his recognized refugee status, his removal from Canada is still contemplated (A47(2) and A72(2)a)).



- 4) The legislation initially permits a written "Application" for the Board's evaluation (A70(2)). If the written material submitted fails to disclose a prima facie case for refugee status, the Board is empowered to dismiss the application. In this way, frivolous claims are quickly identified and eliminated. However, if the written material gives reason to believe the person may be a refugee, the Board must allow the claim to proceed to a full hearing where both the person and the Minister have an opportunity to be heard on the issue.
- 5) A determination by the Minister that an individual is a "Convention Refugee" is not sufficient to guarantee that person's stay in Canada by virtue of Canada's international commitment.
- 6) His remaining in or removal from Canada on the basis of refugee status will ultimately depend upon whether the adjudicator finds him to be described in A4(2)(b) and is thereby not entitled to the protection of the Convention and Protocol relating to refugees. The adjudicator's decision may be subject to an appeal to the IAB.
- 7) In those few cases where it becomes necessary to issue a removal order (A47(2)) against a person recognized as a "Convention Refugee", that person has a right to an appeal hearing before the Board. Legal and humanitarian-compassionate grounds may be invoked and considered except where an A39(1) certificate is the basis for the removal order or the adjudicator has found the person to be a person described in A19(1)(e), (f) or (g), or a certificate under A83 is issued, in which case only the validity of the removal order itself may be challenged.

12.22 SPARE

12.23 POSSIBLE ADDITIONAL APPEAL STAGES

- 1) Disposition of an appeal at the initial stage is not necessarily final. In most instances, provisions exist for further appeals from such initial dispositions.
- 2) Leave to appeal from decisions of the IAB may be sought from the Federal Court of Appeal (A84). Federal Court decisions, in turn, may be appealed to the Supreme Court via a leave to appeal procedure (see Appendix "C").
- 3) Because the decisions of the IAB serve as legal precedents and constitute an important source of law, it is essential that consideration be given to an appeal by the Minister in those cases where the Board has allowed an appeal on what appear to be erroneous legal grounds. Section 84 allows fifteen (15) days from the Board's decision within which to seek leave to appeal. Extensions of this time are only granted for very special reasons and these do not include absence of the Board's reasons for judgment (see 12.83).

- 4) The Board itself will consider "Motions" to re-open appeals it has already disposed of to hear relevant new evidence unavailable for good reason at the original hearing, if it is likely to affect the disposition of the case under the Board's discretionary powers (Grillas decision - Supreme Court (see Appendix "D")).

12.24 RIGHTS OF PERSONS CLAIMING CANADIAN CITIZENSHIP

- 1) Canadian citizens have a right to come into Canada and cannot be removed from Canada. The burden of proof regarding Canadian Citizenship is upon persons claiming it. Confirmation or rejection of a claim to citizenship is the responsibility of the Citizenship Registration Branch of the Secretary of State, which must rule on the matter.
- 2) The Immigration Act recognizes the necessity for an avenue of recourse for individuals who claim to be Canadian citizens but cannot substantiate their claim to the satisfaction of immigration officials. This recourse causes a mandatory adjournment of the immigration inquiry, if that person claims to be a Canadian citizen and is unsuccessful in convincing the adjudicator to this effect. During the adjournment, the matter must be referred to the Minister responsible for citizenship for evaluation, and the person is expected to apply for a citizenship certificate forthwith (A43-44).

12.25 ADDITIONAL REMEDIAL OPPORTUNITIES FOR ALL PERSONS

- 1) There are many persons ordered removed who do not have a right of appeal to the Board. Nevertheless, the lack of specific appeal provisions for these categories does not signify that they have no opportunity for redress. The following opportunities apply to all persons seeking redress from Commission actions and decisions.
 - a) Section 28 of the Federal Court Act (see partial text at Appendix "J") provides jurisdiction for the Federal Court of Appeal to review and set aside decisions of federal agencies if, in the Court's view, such action is warranted on grounds related to natural justice, jurisdiction, errors in law and erroneous findings of fact made in a perverse or capricious manner or without regard for the material before them.
 - b) Public officials may be compelled through writs of "Mandamus" to perform duties imposed upon them by statute. Writs of "Prohibition" seek to prevent a tribunal from acting without jurisdiction, or in excess of its jurisdiction. If issued, they forestall the carrying out of administrative decisions until the Court has an opportunity to establish the legal validity of the decisions. Further, in an endeavour to avoid illegal detention, persons may seek writs of Habeas Corpus in the Provincial Courts. Such writs do not relate to the merits of detention.
- 2) The Courts, unlike the IAB, have no discretionary authority to go beyond the application and interpretation of legal provisions.



12.26 APPEALS UNDER A84 AND APPLICATIONS FOR REVIEW PURSUANT TO SECTION 28 OF THE FEDERAL COURT ACT

The two actions must not be confused.

- 1) A84 allows an appellant to seek leave to have the Federal Court of Appeal consider a decision of the IAB which the appellant alleges is based on an error in law or jurisdiction. It does not provide for a challenge of the Board's use of its discretionary powers. If the Court decides there was an error in law or jurisdiction which deserves its consideration, it will grant leave to appeal. Following the appeal, the Court may then dismiss the appeal or set aside the Board's decision and give the decision that should have been made, or refer the matter back to the Appeal Board with directions as appropriate.
- 2) Section 28 of the Federal Court Act, provides for a right to have reviewed decisions of Federal Boards, Commissions or other Tribunals, if the decision is not of an administrative character, unless, if administrative, it was nevertheless made on a judicial or quasi-judicial basis. These actions are to be heard and determined without undue delay. The Court may dismiss the application or set aside the decision complained of and/or refer the matter back with directions as appropriate. Unlike an appeal pursuant to A84, it cannot give the decision that should have been made.

12.27 - 12.35 SPARES



PROCEDURES

NOTE: IAB appellant rules are identified as "A" IABR and refugee rules are identified as "R" IABR.

12.36 APPEALS AGAINST REMOVAL

- 1) Where an appeal from a removal order lies to the IAB (A72), the adjudicator issuing the order will inform the person of his right to appeal, the manner in which it may be initiated, and provide the necessary forms (IAB 3 and IAB 48). Where applicable (A51(1)), he will also advise of the right to apply to the IAB to return to Canada for the appeal hearing.
- 2) A Notice of Appeal ("A" IABR 22) may be served on the adjudicator who made the removal order or on an immigration officer within five days of service of the removal order. If served on an immigration officer, he will acknowledge service and immediately provide the notice to the adjudicator. In either case, following receipt of the Notice of Appeal, the adjudicator will:
 - a) file with the Board three certified true copies of the Record (as defined in "A" IABR 24) and the Notice of Appeal;
 - b) serve the appellant and his counsel with a certified true copy of the Record ("A" IABR 23(a));
 - c) send a copy of the Record and Notice of Appeal to the Manager, Appeals Office;
 - d) send a copy of the Record and Notice of Appeal to the Chief, Appeals and Litigation.See IE 14 for procedure if an appeal right is not exercised.
- 3) Pending disposition of the appeal, the field office responsible will:
 - a) defer removal, if applicable, in accordance with IE 14.11;
 - b) ensure the appellant complies with conditions of his release, if applicable;
 - c) immediately inform the appropriate Registrar and the responsible appeals office (Appendices "A" and "B") of any changes in the appellant's address;
 - d) inform the responsible appeals office of any relevant new developments and additional significant information not evident in the Record.



- 4) The appeals officer responsible for the case will:
- a) upon receipt of a Notice of Hearing from the Board, provide a copy to the field office and Chief, Appeals and Litigation;
 - b) upon conclusion of the appeal hearing, submit a report to the Chief, Appeals and Litigation;
 - c) upon receipt of the Board's decision, ensure a copy of the decision is sent to the adjudicator and field office concerned, if not sent there by the Board, and provide functional guidance to the field regarding implementation of the Board's decision (see also 5) below).
- 5) a) Where the decision is to execute the order and the decision is not challenged in a Court Action, the field office should proceed as in IE 14.
- b) If the Board allows the appeal and quashes the order against a permanent resident, the Board's decision reinstates the person's resident status (A24(1)(b), A76(1)).
 - c) Where the Board quashes the order and refers the person for examination (A76(1)(b)), the appeals officer will pass on relevant information to the field office with appropriate functional guidance.
 - d) In directing a stay under A75(1)(c), the Board will impose terms and conditions listed in the decision.
 - e) When an appellant reports, as directed by the Board, to an Immigration Office, IAB 54 or Board's order will be endorsed on the reverse with the port stamp, dated and signed by the officer to whom the appellant reported, and the reporting will be recorded.
 - f) When an immigration officer has knowledge that a person under a "stayed" order has violated any term or condition imposed by the Board, he will immediately inform the Appeals Office concerned and provide all particulars necessary including copies of conditions, committal notices, or other similar documents.
 - g) A report describing the appellant's activities and current circumstances will be sent to the applicable Appeals Office by the field office four weeks before the date on which the case is scheduled to be reviewed by the Board, or by such other date as may be requested by the appeals officer. The report must be factual and capable of being substantiated by evidence, but may include opinions or impressions of reporting officers, provided these opinions or impressions are clearly identified as such. The report should identify material obtained confidentially and not be released.
 - h) The responsible appeals officer will provide specific guidance in all "stayed" cases to the appropriate field office.



12.37 APPEALS BY MINISTER

- 1) When an adjudicator, following an inquiry, decides not to issue a removal order or departure notice, the adjudicator will immediately inform the person concerned, and his counsel where applicable, that the decision is subject to appeal by the Minister within 30 days of its pronouncement (A73, "A" IABR 25).
- 2) The decision to appeal an adjudicator's decision to the IAB is made by the Minister or those officers at NHQ delegated to exercise his authority pursuant to A73.
- 3) When an appeal is entered, the Minister will:
 - a) serve a "Notice of Appeal" ("A" IABR 25) on the person concerned and the adjudicator;
 - b) file a copy of the Notice with the Registrar of the Board within five days of service ("A" IABR 26(1));
 - c) send one copy of the material served and filed to the applicable Appeals Office Manager.
- 4) The Adjudicator served will forthwith:
 - a) serve the person concerned and his counsel with a certified true copy of of the record ("A" IABR 27(a));
 - b) file three certified copies of the record with the appropriate Registrar of the Board (see "A" IABR 27);
 - c) send a copy of the record to the Chief, Appeals and Litigation Division (Minister) and provide the Manager of the applicable Appeals Office with a copy.
- 5) The procedures, subsequent to the disposition of the appeal, are the same as in appeals against removal outlined in 12.36 above.

12.38 NOTIFICATION OF APPEAL

An officer upon whom a Notice of Appeal has been served shall immediately inform the appropriate post abroad by telex. Memoranda will not be used for that purpose.

12.39 DISPUTED APPEAL RIGHTS

- 1) Where there is no right to appeal, or where the appeal right or where the right to enter an appeal or not depends upon an officer's determination of facts and intent, e.g., loss of permanent resident status, under a specific provision of the Immigration Act, adjudicators ordering removals and



IE 12.39

officers refusing applications need not make reference to appeal provisions. However, if asked about the possibility of entering an appeal, the officer will explain the appeal procedures. (The guidelines to appeal rights in 12.08 to 12.23 may be used for this purpose.)

- 2) Where there is no apparent right of appeal but the person insists on serving a Notice of Appeal, officers will accept these notices "without prejudice" following the procedure outlined in 12.40 below.
- 3) Since it is the prerogative of the Appeal Board to make an authoritative ruling on appeal rights, it is futile to argue the matter with the person concerned.
- 4) Persons requesting them will be provided with "Notice of Appeal" forms even if, in the officer's view, they clearly have no right of appeal.

12.40 LATE FILED APPEALS

- 1) Where a Notice of Appeal is not entered within the prescribed time, and the person concerned or his counsel subsequently communicates with an officer, the officer will:
 - a) if by telephone, point out the time limits imposed and provide the name, address and telephone number of the appropriate Registrar of the Board whom the person could contact for further information;
 - b) if by telex, telegram or letter:
 - 1) acknowledge receipt and inform the writer that a copy of his communication is being forwarded to the Board's Registrar (whose address should be quoted) for consideration; and
 - 11) forward a copy of the acknowledgement, together with copies of the incoming communication and of the removal order or refusal letter, to the appropriate Registrar without comment. (Where possible, and applicable, a photocopy of the incoming envelope with the mailing date visible on the postmark should be included for the Registrar.)
 - c) in all cases, communicate the information in the same manner to the appropriate Appeals Office.
- 2) After expiry of the time stipulated in the IAB's Rules for filing ("A" IABR 7-9), the person will be provided with the appropriate forms "without prejudice".
- 3) An immigration officer served with a "Notice of Appeal" after expiry of the time stipulated for filing, will:
 - a) remind the person of the time limitations;
 - b) ensure that the date of removal order or refusal of application is accurately contained in the Notice;



- c) acknowledge service by inserting on the form the date of service, his signature, and in front of his signature the notation: "Accepted without Prejudice" and distribute the notice in the normal manner for the type of appeal entered.
- 4) It will be the responsibility of the appeals officer or justice officer assigned to the case to contest the jurisdiction of the tribunal by motion.
- 5) The full "Record" need not be distributed, if at all, in such cases until the Motion is disposed of by the Board. However, the officer and stenographer concerned should retain all documents and notes in the event it becomes necessary to file the Record at a later date.
- 6) If the Board request distribution of the Record prior to disposing of the Motion for Discontinuance, the adjudicator's "Appeal Summary" (see 12.86) as well as the "Appeal" stamp (see 12.87) will be omitted.

12.41 - 12.61 SPARES

ADDRESSES OF THE IMMIGRATION APPEAL BOARD

(References at 12.36 3) and 12.91 1))

* Board's Location

Geographic Area Covered

OTTAWA

The Registrar
Immigration Appeal Board
116 Lisgar Street
OTTAWA, Ontario K1A 0K1

Tel: (613) 995-6486

Administration Only

MONTREAL

The Registrar
Immigration Appeal Board
Complex Guy Favreau
200 Dorchester Blvd. West
East Tower, 1st Floor
MONTREAL, Quebec H2Z 1X4

Tel: (514) 283-7733

Province of Quebec, National
Capital Region and Atlantic
Provinces

TORONTO

The Registrar
Immigration Appeal Board
6th Floor
1235 Bay Street
TORONTO, Ontario M5R 3K4

Tel: (416) 973-6035

Province of Ontario except
National Capital Region

WINNIPEG

The Registrar
Immigration Appeal Board
300 - 303 Main Street
WINNIPEG, Manitoba R3C 3G7

Tel: (204) 949-3553

Manitoba, Saskatchewan, Alberta
and N.W.T.

* VANCOUVER
The Registrar
Immigration Appeal Board
Suite 1600
P.O. Box 1600
800 Burrard Street
VANCOUVER, B.C. V6Z 2J9

Tel: (204) 666-5946

British Columbia and the Yukon



APPEALS OFFICES OF THE DEPARTMENT/COMMISSION

(References at 12.36 3), 12.84 1) and 12.91 1))

<u>Location of Offices</u>	<u>Geographic Area Covered</u>
<u>MONTREAL</u> Manager, Appeals Office Canada Employment & Immigration Commission Immigration Division * Complex Guy Favreau, West Tower, Room 511 MONTREAL, Quebec H2Z 1X4 Tel: (514) 283-7212	Province of Quebec
<u>TORONTO</u> Manager, Appeals Office Canada Employment & Immigration Commission Immigration Division * 443 University Ave., Suite 502 TORONTO, Ontario M5Q 2H6 Tel: (416) 973-5620	Ontario and the Atlantic Provinces
<u>VANCOUVER</u> Manager, Appeals Office Canada Employment & Immigration Commission Immigration Division Box 11145, Royal Centre 1055 West Georgia Street VANCOUVER, B.C. V6E 2P8 Tel: (604) 666-8679	British Columbia, Yukon, Alberta and The North-West Territories
<u>WINNIPEG</u> Appeals Officer Canada Employment & Immigration Commission Immigration Division 300 Graham Ave., Room 710 WINNIPEG, Manitoba R3C 4B9 * Tel: (204) 983-8753	Manitoba - Saskatchewan



PARTIAL TEXT - SEC. 31 - FEDERAL COURT ACT

(Reference at 12.23 2))

31. (2) An appeal to the Supreme Court lies with leave of the Federal Court of Appeal from a final or other judgement or determination of that Court where, in the opinion of the Court of Appeal, the question involved in the appeal is one that ought to be submitted to the Supreme Court for decision.

(3) An appeal to the Supreme Court lies with leave of that Court from any final or other judgement or determination of the Federal Court of Appeal, whether or not leave to appeal to the Supreme Court has been refused by the Federal Court of Appeal.

(1972) R.S.C.

07 - 83

(Reference at 12.86 3))

Employment and Immigration Canada

_____ Region

APPEAL SUMMARY

TO REGISTRAR, IMMIGRATION APPEAL BOARD (BY REGISTERED MAIL) FILE _____

FROM ADJUDICATOR _____ OFFICE _____

APPELLANT

1. THIS IS THE APPEAL OF THE ABOVE NAMED TAKEN FROM
A DEPORTATION ORDER ISSUED AT _____ ON _____

2. THE FOLLOWING DOCUMENTS ARE ATTACHED:

- | | |
|--|-----------------------------|
| (a) NOTICE OF APPEAL | (c) MINUTES OF THE INQUIRY |
| (b) COPY OF DEPORTATION ORDER | (d) EXHIBITS TO THE INQUIRY |
| (e) ALL OTHER DOCUMENTS RESPECTING THE PROCEEDINGS | |

3. _____ was born _____ at _____ on _____
_____ . He came to Canada on _____ , _____ , at _____
and was granted admission as _____ .

At an inquiry held at _____ , _____ on _____
_____ was ordered deported since he was found to be a person described
under paragraph _____ of the Act. He was released on his own recognizance
pending the hearing of his appeal before the Immigration Appeal Board.

DISTRIBUTION:

- 3 - Immigration Appeal Board,
- 1 - Chief, Appeals & Litigation, Enforcement Branch, Ottawa.
- 1 - Manager, Appeals Office, _____
- 1 - Appellant,
- 1 - Counsel to Appellant

I CERTIFY THAT THIS IS A TRUE AND FAITHFUL COPY OF ALL DOCUMENTS
COMPRISING THE RECORD IN THE APPEAL OF:

DATE

SIGNATURE

(Reference at 12.86 3))

Employment & Immigration Canada

BY REGISTERED MAIL

, 19

Clerk of Process
Federal Court of Canada

Dear Sir:

RE: _____ - Deportation Order -
Originating Notice under Section 28 of the Federal Act

Attached herewith are seven certified true copies of the Record of an Immigration Inquiry concerning _____, which was concluded with an Order of Deportation on _____, 19 _____, as a result of which Notice under Section 28 of the Federal Court Act was filed at your Registry on _____, 19 ____.

**

Yours sincerely,

Signature of Adjudicator

Name and Address of
Adjudicator

attachments

c.c. Chief, Appeals and Litigation,
Enforcement Branch, OTTAWA
ATTN: Litigation Officer

** The subject is detained under the Immigration Act pending disposition of the application (if applicable).

SAMPLE NOTICE OF WITHDRAWAL

(Reference at 12.65 2))

In the Immigration Appeal Board

BETWEEN

Appellant

and

The Minister of Employment and Immigration

Respondent

Notice of Withdrawal of Appeal

TAKE NOTICE that, pursuant to section 13 of the Immigration Appeal Board Rules (appellate), 1981, I, _____, DO HEREBY WITHDRAW my appeal entered in this Honourable Board on the _____ day of _____, and in so doing, DO HEREBY ACKNOWLEDGE that I have no further interest in exercising my right to appeal from the deportation order issued against me on the _____ day of _____ 19 ____.

AND FURTHER TAKE NOTICE that the nature and effect of my withdrawal have been fully explained to me and my withdrawal is made voluntarily without influence of coercion by any person.

Dated at _____, this _____ day of _____
 19____ Witness _____
 Title _____ Immigration Officer

Appellant

TO: The Registrar
Immigration Appeal Board

DECLARATION

I, _____, of _____, do solemnly declare that I have faithfully and truly interpreted the meaning and effect to _____ in his own language, namely, _____, and that he has informed me that he completely understands the nature and effect of the same and I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath.

Declared before me at
this day of
19 ,

Signature _____

A Commissioner for oaths, etc.

SECTION 28 - FEDERAL COURT ACT

(Reference at 12.25 2))

28. (1) Notwithstanding section 18 or the provisions of any other Act, the Court of Appeal has jurisdiction to hear and determine an application to review and set aside a decision or order, other than a decision or order of an administrative nature not required by law to be made on a judicial or quasi-judicial basis, made by or in the course of proceedings before a federal board, commission or other tribunal, upon the ground that the board, commission or tribunal

(a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;

(b) erred in law in making its decision or order, whether or not the error appears on the face of the record; or

(c) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

28. (1) Nonobstant l'article 18 ou les dispositions de toute autre loi, la Cour d'appel a compétence pour entendre et juger une demande d'examen et d'annulation d'une décision ou ordonnance, autre qu'une décision ou ordonnance de nature administrative qui n'est pas légalement soumise à un processus judiciaire ou quasi judiciaire, rendue par un office, une commission ou un autre tribunal fédéral ou à l'occasion de procédures devant un office, une commission ou un autre tribunal fédéral, au motif que l'office, la commission ou le tribunal

a) n'a pas observé un principe de justice naturelle ou a autrement excédé ou refusé d'exercer sa compétence;

b) a rendu une décision ou une ordonnance entachée d'une erreur de droit, que l'erreur ressorte ou non à la lecture du dossier; ou

c) a fondé sa décision ou son ordonnance sur une conclusion de fait erronée, tirée de façon absurde ou arbitraire ou sans tenir compte des éléments portés à sa connaissance.

(Reference in "Authorities")

SECTION 18 - FEDERAL COURT ACT

18. The Trial Division has exclusive original jurisdiction

(a) to issue an injunction, writ of *certiorari*, writ of prohibition, writ of *mandamus* or writ of *quo warranto*, or grant declaratory relief, against any federal board, commission or other tribunal; and

(b) to hear and determine any application or other proceeding for relief in the nature of relief contemplated by paragraph (a), including any proceeding brought against the Attorney General of Canada, to obtain relief against a federal board, commission or other tribunal.

18. La Division de première instance a compétence exclusive en première instance

a) pour émettre une injonction, un bref de *certiorari*, un bref de *mandamus*, un bref de prohibition ou un bref de *quo warranto*, ou pour rendre un jugement déclaratoire, contre tout office, toute commission ou tout autre tribunal fédéral; et

b) pour entendre et juger toute demande de redressement de la nature de celui qu'envisage l'alinéa a), et notamment toute procédure engagée contre le procureur général du Canada aux fins d'obtenir le redressement contre un office, une commission ou à un autre tribunal fédéral.



+
WRITS, APPEALS AND APPLICATION FOR REVIEW
FEDERAL COURT OF CANADA

1. PREFACE

- 1) From time to time, decisions made by immigration officers, and also the Immigration Appeal Board, are contested by the persons affected thereby and are referred to the courts for consideration. Inasmuch as the courts have the power in certain circumstances to deal with contested actions of "administrative tribunals", it is important that officers have an understanding of the nature and scope of this supervisory role.
- 2) The courts derive their supervisory jurisdiction from both statute law and common law. The usual statutory form is the appeal and review procedure. For example, the Immigration Act expressly confers upon the Immigration Appeal Board and the Federal Court of Appeal an appellate power in respect of certain decisions made by immigration officers, adjudicators and the Immigration Appeal Board. The Federal Court of Appeal also has the power to review decisions made by boards and commissions. This appellate and review jurisdiction will be dealt with later in this section.

2. PREROGATIVE WRITS

- 1) The major common law means for judicial consideration of contested decisions is found in the following common law remedies: motions for certiorari, mandamus, prohibition and habeas corpus. These are referred to as "prerogative writs" and, although they are now regulated by state or by rules of court, their origins were in the common law. The party making application for the issuance of such writs or judicial commands is obliged to establish proper cause to the satisfaction of a court why the writ should issue. They are not available merely for the asking. The award of the writs lies within the discretion of the court. Although each writ performs a different function insofar as it relates to the person or tribunal to whom it is directed, it is important to keep in mind that the main feature of the writs is to permit the courts to supervise the actions of administrative tribunals. This supervisory role is not all encompassing as the courts are limited in the scope of their review upon such motions.
- 2) A brief description of the four prerogative writs noted above is as follows:
 - a) 1) Habeas Corpus - This means "deliver the body". It is directed to the person who has the body or individual in his custody and directs that person to come forward and justify having the body in his custody. The "body" need not be in a prison, but it must be physically restrained of its liberty. This type of writ is an age-old remedy against arbitrary imprisonment and is one of the foundation stones of our system of justice.



- ii) The person who has the body in his custody must make a "return" to the writ. He need only show that he is lawfully detaining the person. Applied to Immigration, the writ is usually directed to the official responsible for the detention. The return need only show that the body is being detained in accordance with the law.
- b) i) Certiorari - Roughly translated this means "inform me more fully". This type of writ is a means whereby a higher court can command a lower court to provide its record for review by the higher court "to the end that justice might be done". These writs are not usually issued if there is a normal appeal process from the decision of the lower court to a higher court.
 - ii) Although reference above has been made only to courts, this procedure is available to check on the proceedings of any administrative group, body, or tribunal that, by law, has a duty to act "judicially". It has long since been established that adjudicators and immigration officers are included in the above in that their decisions affect the personal rights and liberties of persons appearing before them.
 - iii) On Certiorari the higher court cannot delve into the merits of the case. It can and does, however, question the jurisdictional and procedural aspects of the proceedings.
- c) Mandamus - This writ is issued to compel the performance of a duty. It issues where the injured party has a right to have a thing done and has no other specific means of compelling its performance. It is used to compel public officers to perform duties imposed upon them by common law or by statute; or to compel inferior courts to proceed in matters within their jurisdiction. The person against whom it issues must be under a legal duty to act in a certain way and he must have been asked to act and he must have refused to do so. If granted, the writ forces the person to do the act required of him.
- d) Prohibition - This writ is issued to prohibit the exercise of a particular function or act. It is referred as a sister remedy to certiorari but it differs in substance from certiorari in the time appropriate for its use. Whereas certiorari quashes something already erroneously done, prohibition seeks to prevent an error from either occurring or continuing. Prohibition does not lie until a right to complain has arisen. But it may be sought as soon as an absence of jurisdiction has either arisen or may clearly be foreseen.



3. APPLICATIONS TO THE FEDERAL COURT OF CANADA (F.C.C.)

- 1) When the Immigration Appeal Board Act was enacted in 1967, an appeal on any question of law, including question of jurisdiction, from a decision of the Board could be taken to the Supreme Court of Canada. The Act was subsequently amended to provide that such appeals (I.A. 84) would fall under the jurisdiction of the Federal Court of Appeal. Inasmuch as the Federal Court was not formally constituted until the first day of July 1971, it has been held that appeals may be heard by it only in respect of decisions by the Board made after July 1st, 1971.
- 2) In addition to its appellate jurisdiction, the Federal Court of Appeal has been granted the power by Section 28 of the Federal Court Act to review and set aside a decision or order made by or in the course of proceedings before a federal board, commission or other tribunal. An application to the Court for such a review can be taken upon the ground that the board
 - a) failed to observe a principle of natural justice or otherwise acted beyond or refused to exercise its jurisdiction;
 - b) erred in law by making its decision or order, whether or not the error appears on the face of the record; or
 - c) based its decision or order on an erroneous finding of fact that it made in a perverse or capricious manner or without regard for the material before it.

This power to review extends, of course, to decisions or orders of the I.A.B. other than decisions or orders which may be appealed (I.A. 84).

- 3) Leave must be obtained from the Court of Appeal before a party may pursue an appeal.

4. NORMAL STEPS IN APPEAL PROCEEDINGS

- 1) Application for Leave to Appeal - Application for leave to be made within 15 days after the decision appealed from is pronounced.
(Application for Extension of Time Within Which to Seek Leave to Appeal - a judge has jurisdiction to extend the 15-day period if special reasons are shown, such as the other party cannot be located.)
- 2) Hearing of the Appeal.
- 3) Decision and Judgement of the Court.



5. NORMAL STEPS IN REVIEW PROCEEDINGS

- 1) Application for Review - to be made within 10 days of the time the decision or order was first communicated to the applicant by the Board. (Application for Extension of Time to make Application for Review - the comments respecting appeals apply here also.)
- 2) Hearing of Application
- 3) Decision and Judgement by the Court.

6. SERVICE OF DOCUMENTATION

- 1) As is the case in most court proceedings, the person applying for leave to appeal, or for a review or extension thereof, must inform the other party and furnish him with copies of all material to be used in support of the particular application. Generally speaking, this is accomplished by personal service of certified copies of the material upon the other party.
- 2) Where the Minister of Employment and Immigration is the appellant/applicant, Justice officers having charge of the matter will request that officers of the department take steps to locate the other party and to serve him. Time is of the essence and accordingly it is expected that upon such a request, immediate steps will be commenced.
- 3) Where the appellant/applicant is not the Minister, service will be made upon either a Justice officer or a member of the department.



TABLE OF CONTENTS

CHAPTER 14

REMOVALS

Paragraph

AUTHORITY

GENERAL INTENT

Removal from Canada	14.01
Spares	14.02 - 14.05

GUIDELINES

Removal Order	14.06
Service of Order	14.07
Execution of Orders	14.08
Effect of Removal Orders	14.09
Stay of Execution	14.10
+ Deferment of Removal - Applications to Federal and Supreme Courts or Other Legal Proceedings	14.11
Voluntary Departure	14.12
Place to which Removal is Effected (A54)	14.13
Removal of Refugees	14.14
Departure Notice	14.15
Escape or Attempt to Escape Custody	14.16
Photographs and Fingerprints - Persons Under Removal Order	14.17
Assistance to Leave Canada	14.18
Seizure of Documents	14.19
Advance Notice of Removal Arrangements to Foreign Governments	14.20
Removal of Paroled Persons	14.21
Spares	14.22 - 14.29

PROCEDURES

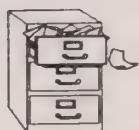
Removal to the United States - Reciprocal Arrangement	14.30
Removal Under the Reciprocal Arrangement Without a Letter of Consent	14.31
Letters of Consent Issued Under the Reciprocal Arrangement	14.32
Notice Required in Cases Involving Medical Care or Treatment	14.33
Advance Notice - Deportees of Interest to Law Enforcement Authorities in the Receiving Country	14.34
Notice Required in Cases of Aliens where a Minister's Permit is Issued or where Parole is Granted	14.35
Notice Required - Persons Authorized by the Immigration Appeal Board to Return to Canada (A77)	14.36
Transportation and Subsistence - Reciprocal Arrangement	14.37

Paragraph

Voluntary Departure	14.38
Official Records and Privacy Consideration	14.39
Persons Issued a Rejection Order or a Direction to Return to the United States Following Application for Admission at a Canadian Port of Entry - Reciprocal Arrangement	14.40
Removal Orders Appealed or Other Legal Proceedings Initiated - Reciprocal Arrangement	14.41
Removal to the United States Following Issuance of Deportation Order After Admission to Canada - Reciprocal Arrangement	14.42
Persons Ordered Removed while Serving Prison Terms - Reciprocal Arrangement	14.43
Persons Being Extradited to Canada - Reciprocal Arrangement	14.44
Admitting Officer to be Satisfied - Reciprocal Arrangement	14.45
Acceptance of Deportees at Canadian Ports of Entry - Reciprocal Arrangement	14.46
Deportation from the U.S. Through Canada to Other Countries	14.47
Execution of Departure Notice	14.48
Verification of Compliance with Terms of Departure Notice	14.49
Verification of Voluntary Departure	14.50
Travel Documents and Letters of Consent - Detained Cases	14.51
Advice to Transportation Companies - Detained Cases	14.52
Advance Notification to Airline Companies of Persons Being Removed	14.53
Notification to Posts Abroad of Persons Under Removal Order	14.54
Removal Arrangements	14.55
Removal Arrangements - Travel Documentation	14.56
Advance Notification to RCMP of Removal of Persons for Criminal or Drug Offenses	14.57
Advance Notification of Removal of Persons to the United Kingdom	14.58
Advance Notification of Removal of Persons to Hong Kong	14.59
Advance Notification of Removal of Persons to Australia	14.60
Advance Notification of Removal of Persons to the Philippines	14.61
Advance Notification of Removal of Persons to France	14.62
Advance Notification of Removal of Persons to Italy	14.63
Request for Confirmation of Vital Statistics in the United States	14.64
Removal Via the United States to Other Countries	14.65
Removal Arrangements - Baggage	14.66
Escorting Persons Under Removal Order	14.67
Responsibilities of Removal and Escort Officers	14.68
Medical History for Receiving Institution or Physician	14.69
Reports on Persons Escaping Custody	14.70
Use of Document Envelope (IMM 1226)	14.71
Enquiries from National Parole Board	14.72
Return of SIN Cards to CEIC	14.73
Procedures for the Carriage of Deportees Under Escort	14.74
On...Spares	14.75



AUTHORITY	1
GENERAL INTENT	1
14.01 REMOVAL FROM CANADA	1
14.02 – 14.05 SPARES	1
GUIDELINES	2
14.06 REMOVAL ORDER	2
14.07 SERVICE OF ORDER	2
14.08 EXECUTION OF ORDERS	2
1) Time limit	2
2) Validity	2
3) Unexecuted Removal Order	2
14.09 EFFECT OF REMOVAL ORDERS	2
1) Minister's Consent for Re-entry	2
2) Minister's Consent and Reimbursement of Removal Costs	2
3) Re-entry for an Appeal Hearing	2
4) Re-entry of Family Members	3
5) Re-entry following Denial of Entry Elsewhere	3
6) Re-entry during Stay of Execution	3
14.10 STAY OF EXECUTION	3
1) Applicable Circumstances	3
2) Duration	4
3) Effect of Other Orders	4
4) Presence at Criminal Proceedings	4
5) Inmates of Correctional Institutions	4
6) Consultation of Case Management Branch	4
7) Notification of Counsel	4
8) "Eleventh-Hour" Submissions	4
14.11 VOLUNTARY DEPARTURE	5
1) Provision of the Act	5
2) Appropriate Circumstances	5
3) Time Limit	5
4) Effect of Voluntary Departure on Removal Order	5
5) Persons Wanted for Criminal Offences or Punishment	5
14.12 PLACE TO WHICH REMOVAL IS EFFECTED (A52(2))	5
1) Persons Not Allowed to Depart Voluntarily	5
2) Alternative Destinations	6
3) Removal to Specific Countries	6
14.13 REMOVAL OF REFUGEES	6
1) Persons Who May Not be Removed	6
14.14 DEPARTURE ORDER	6
1) Conditions Requiring Issuance of a Departure Order	6
2) Departure Notice	6
3) Permission to Re-enter Canada	6
14.15 DEPARTURE ORDER – INFORMATION KIT	7
14.16 ESCAPE OR ATTEMPT TO ESCAPE CUSTODY	7



14.17 PHOTOGRAPHS AND FINGERPRINTS – PERSONS UNDER REMOVAL ORDER ...	7
1) Purposes	7
2) Limited Use	7
14.18 ASSISTANCE TO LEAVE CANADA	7
14.19 SEIZURE OF DOCUMENTS	7
1) Grounds for Seizure	7
2) Forwarding to NHQ	7
3) Documents to be Returned to EIC	8
14.20 ADVANCE NOTIFICATION OF REMOVAL ARRANGEMENTS TO FOREIGN GOVERNMENTS	8
1) Confidentiality	8
2) Agreements with Other Countries	8
3) Absence of an Agreement	8
14.21 REMOVAL OF PAROLED PERSONS	8
1) Persons Released on Parole	8
2) Persons under Mandatory Supervision	8
3) Persons on Day Parole	8
4) Persons Ordered Deported Before IAB Act, 1967	9
14.22 – 14.29 SPARES	9
PROCEDURES	10
14.30 REMOVAL TO THE UNITED STATES – RECIPROCAL ARRANGEMENT (See Appendix “B”)	10
1) Arrangement of 1987	10
2) Application	10
3) Interpretation	10
14.31 REMOVAL UNDER THE RECIPROCAL ARRANGEMENT WITHOUT A LETTER OF CONSENT	10
1) Persons Being Removed to the United States	10
2) Contact in Event of Difficulties	11
3) Persons Being Removed from the United States to Canada	11
4) Content of Notice	12
5) Verification of Birth	12
6) Telephone Confirmation of Birth	12
7) Removal of Canadian Citizens	12
14.32 LETTERS OF CONSENT ISSUED UNDER THE RECIPROCAL ARRANGEMENT	12
1) Letters of consent are issued on behalf of:	12
2) Persons Being Removed to the United States from Canada	13
3) Persons Being Removed from the United States to Canada	13
14.33 NOTICE REQUIRED IN CASES INVOLVING MEDICAL CARE OR TREATMENT	14
1) Advance Written Notice	14
2) Reception of Deportees	14
14.34 ADVANCE NOTICE – DEPORTEES OF INTEREST TO LAW ENFORCEMENT AUTHORITIES IN THE RECEIVING COUNTRY	14
14.35 NOTICE REQUIRED IN CASES OF ALIENS WHERE A MINISTER’S PERMIT IS ISSUED OR WHERE PAROLE IS GRANTED (See Part II 2 of Appendix “B”)	15
1) Issuance of a Minister’s Permit	15



Appendix

Regional Investigation and Control Offices - Addresses	"A"
The Reciprocal Agreement Between CEIC and the U.S. Immigration and Naturalization Service	"B"
Notice of Issuance of Minister's Permit	"C"
Status of Persons Living in United States Territories and Protectorates	"D"
State Vital Statistics Offices	"E"
NOTAM	"F"
IMM 1217 - Rejection Order Under Section 13 of the Immigration Act	"G"
IMM 1237 - Direction to Return to the United States (Under Subsection 20(2) of the Immigration Act)	"H"
IMM 1238 - Direction to Return to the United States (Under Subsection 23(5) of the Immigration Act)	"I"
IMM 1220 - Departure Notice	"J"
IMM 0056 - Confirmation of Departure	"K"
IMM 0476 - Detained	"L"
IMM 1253 - Notice of Removal and Profile	"M"
IMM 0419 - Order of the Deputy Minister of Employment and Immigration (under Section 105 of the Immigration Act)	"N"
IMM 0421 - Order for Detention	"O"
IMM 1226 - Document Envelope	"P"
IMM 1215	"Q"
IMM 1214	"R"
* Specimen letter for Return of Non-Resident Alien	"S"



CHAPTER 14

REMOVALS

AUTHORITY

Act: 50, 51 52, 53, 54, 55, 56, 57, 111, 115(1)(a), 122

Regulations: 44(1), 49(2), 49(3)

GENERAL INTENT

14.01 REMOVAL FROM CANADA

The Commission is committed to the responsibility of removing from Canada persons who contravene immigration legislation. This responsibility is stated as the "protection of health, safety and good order of Canadian society in the objectives of immigration policy outlined in section 3 of the Immigration Act, 1976. The desirability of removing alien criminals from Canada expeditiously requires little elaboration. In addition, we are faced with the problem of removing from Canada persons who violate the legislation in the hope of improving their economic situation. The Commission's ability to deal effectively and sympathetically through the removal process impacts on public opinion as it relates to the immigration process. Although we attempt to expedite removal proceedings, we must be concerned that all the rights accorded to the persons under law are observed and that their removal is facilitated in an equitable manner.

14.02 - 14.05 SPARES



4) Re-entry of Family Members

Persons included in a Deportation Order under A33(1) do not require the consent of the Minister to return to Canada. A33(1) provides for the removal of members of the family who are dependant on the person in Canada who becomes the subject of a Removal Order or Conditional Removal Order made by an adjudicator, unless the dependant is a Canadian citizen or a permanent resident nineteen or more years of age. In their case, the Deportation Order does not preclude future admission. They are not considered to have been deported for Minister's consent purposes.

5) Re-entry following Denial of Entry Elsewhere

Persons under removal proceedings who are obliged to return to Canada because they have been denied entry elsewhere may come into Canada without consent of the Minister (A54(1)) (see IE 14.08 3)).

6) Re-entry during Stay of Execution

Where the Appeals Division stays the execution of a removal order under A74(2), the person concerned does not require ministerial consent to come into Canada at any time during the period for which the stay of execution is in effect (A56(2)).

14.10 STAY OF EXECUTION

1) Applicable Circumstances

A49(1) provides for the execution of a removal order to be stayed in certain circumstances. There are, however, two exceptions to these stay provisions as provided for in A49(1). These are:

- a) An exception is made in the case of a person residing or sojourning in the United States or St. Pierre and Miquelon on whom the removal order is made as a result of a report under A20(1) only. Persons coming within this exception will be removed from Canada to await the results of their litigation in the United States or St. Pierre and Miquelon.
- b) Another exception to this is a person who has been determined to be ineligible to make a claim to be a Convention refugee by reason of paragraph 46.01(1)(b) and who is to be removed to a country with which the Minister has entered into an agreement under section 108.1 for sharing the responsibility for examining refugee claims.

Subject to the above-noted two exceptions, A49(1) provides for a stay of execution of a removal order in the following circumstances:

- i) The person filing for leave to commence an application for judicial review has to file within fifteen days after the day on which the applicant is notified of the order. Such applications are made to the Federal Court – Trial Division pursuant to A82.1(3).
- ii) The person may file an appeal to the Federal Court of Appeal on a matter which the Federal Court – Trial Division has certified to be “a serious question of general importance” (A83(1)). The person concerned may remain until the appeal has been disposed of. The same stay of removal applies to this type of case where it is appealed to the Supreme Court of Canada. Under A83(2) this appeal must be filed within fifteen days of the pronouncement of the judgment. In certain circumstances, under A83(3), this filing time may be extended by a judge of the Federal Court – Trial Division.

NOTE: This statutory stay only applies where the person has been determined not to be a convention refugee or where a person's appeal has been dismissed by the IAD.

iii) in any case where:

- A) a person who has claimed to be a Convention refugee, or
- B) a person whose appeal has been dismissed by the Appeal Division,

and where an adjudicator has determined that the person is described in paragraph 19(1)(c), (c.1), (c.2), (d), (e), (f), (g), (j), (k), (l), 19(2)(a), (a.1), (b), 27(1)(a), (a.1), (a.2), (a.3), (d), (g), (h) or 27(2)(d), the removal is stayed for seven days from the date of the order or in the case of a conditional order, on the date upon which the removal order becomes effective, whichever is later.



EXCEPTION:

If the subject agrees to removal prior to the expiration of the seven day period.

- iv) in any case where a person has been determined to be not eligible to have a claim to be a Convention refugee referred to the Refugee division, the execution of the removal order is stayed until seven days have elapsed from the time the order was made or became effective, whichever is later, unless the person agrees that the removal order may be executed before the expiration of that seven day period, and
- v) in any case where a person has been determined pursuant to A69.1(9.1) not to have a credible basis for the claim to be a Convention refugee, the removal order is stayed until seven days have elapsed from the time the order became effective, unless the person agrees that the removal order may be executed before the expiration of that seven day period

2) Duration

The Regional Department of Justice representative should be contacted to determine that no outstanding legal proceedings exist which would prohibit removal, if there is any doubt in the removal officer's mind.

3) Effect of Other Orders

A removal order shall not be executed where the execution would result in a violation of any other order made by any judicial body or officer in Canada (A50(1)(a)). This would apply to the prerogative writs and other court orders directed against EIC to prevent removal. There must be some contemplation that the removal of an individual will directly violate the terms of the order.

4) Presence at Criminal Proceedings

A removal order shall not be executed if the person's presence is required in any criminal proceedings and the Minister stays the execution pending completion of the proceedings (A50(1)(b) and Instrument I-5). It would be appropriate to consider most criminal summons and subpoenas as falling within A50(1)(b).

5) Inmates of Correctional Institutions

- a) A removal order shall not be executed if the person concerned was, at the time it was made, an inmate of a penitentiary, jail, reformatory or prison or, before the order can be executed, becomes an inmate of such institutions (A50(2)).
- b) The removal order shall not be executed until the person has completed the sentence or terms of imprisonment imposed or as reduced by a statute or other law or by an act of clemency.
- c) Where an inmate under removal order comes within the terms of the Reciprocal Arrangement for the Exchange of Deportees Between Canada & the United States, follow the instructions at IE 14.43.

6) Consultation of Case Management Branch

In any instance where officials are unsure as to whether to defer removal on the basis of these instructions, and in every case where the person has filed an application or motion but is not represented by counsel, the CIC should contact (via Regional Headquarters) Case Management at NHQ. The Director, **Case Analysis and Coordination**, normally in consultation with Legal Services, will provide guidance on whether removal should be carried out notwithstanding a motion or application to the courts.

7) Notification of Counsel

Every effort should be made to notify counsel immediately when the decision is taken not to defer execution of a removal order while an application is pending before the courts or the Appeals Division. **Consultation with the Department of Justice Regional Liaison officer is essential before proceeding with a removal.**

8) "Eleventh-Hour" Submissions

Reports have also been received of counsel using "eleventh-hour" A114(2) submissions to defer removal. Officers should be guided by the advice above when presented with such a request. If removal is not deferred, the A114(2) submission can be conclusively dealt with subsequent to execution of the removal order.



GUIDELINES

14.06 REMOVAL ORDER

- * A removal order can be either a Deportation Order (IMM 1215, see App. "Q") or Exclusion Order (IMM 1214, see App. "R").

14.07 SERVICE OF ORDER

Although A49 states that a removal order or a copy shall be served on the person against whom it is made, R36(2) provides that only a copy of the order or departure notice shall be served personally on the person concerned and his counsel, if any.

14.08 EXECUTION OF ORDERS

- 1) A50 provides that a removal order shall be executed as soon as reasonably practicable subject to the Stay of Execution provisions under A51 and A52 (see 14.10) and the deferment policy respecting applications submitted under section 28 of the Federal Court Act and other legal proceedings (see 14.11).
- 2) No removal order becomes invalid by reason of any lapse of time between its making and its execution (A53).
- 3) A removal order shall be deemed not to have been executed if the person is not granted lawful admission in any other country (A56). This section clarifies the status of people removed from Canada who are obliged to return because they have been denied admission elsewhere. Persons coming within this section are not re-admitted to Canada but resume their presence here under the original removal order until it can be executed. A12(2) and A14(1)(c) relate to this special situation (refer to IE 2.32 for procedure relating to this situation).

14.09 EFFECT OF REMOVAL ORDERS

- 1) Unless an appeal has been allowed a person against whom a deportation order (IMM 1215) is made, and who is removed from or leaves Canada, shall not come into Canada without the consent of the Minister (A57(1)).
- 2) Unless an appeal has been allowed a person against whom an exclusion order (IMM 1214) is made, and who is removed from or leaves Canada, shall not come into Canada without the consent of the Minister during a twelve-month period from the day on which the person is removed from or leaves Canada (A57(2)).
- 3) A58(1) provides that the Immigration Appeal Board allow a person to return to Canada for an appeal hearing without the consent of the Minister, under terms and conditions set by the IAB (A77).



- 4) Persons included in a deportation order under A33(1) do not require consent of the Minister to return to Canada. A33 provides for the removal of members of the family of a person in Canada who becomes the subject of a deportation order or departure notice. In their case, the deportation order does not preclude future entry. They are not considered to have been deported for Minister's consent purposes.
- 5) Persons under removal proceedings who are obliged to return to Canada because they have been denied entry elsewhere may come into Canada without consent of the Minister (A56) (see 14.08 3)).
- 6) Where the IAB stays the execution of a removal order under A75(1), the person concerned does not require Ministerial consent to come into Canada at any time during the period for which the stay of execution is in effect (A58(2)).

14.10 / STAY OF EXECUTION

- 1) A51(1) states that the execution of a removal order made as a result of reports under A20(1) and A27 is stayed in the following circumstances:

(An exception is made in the case of a person residing or sojourning in the United States or St. Pierre and Miquelon, on whom the removal order is made as a result of a report under A20(1) only. Persons coming within this exception will be removed from Canada to await the results of their litigation in the United States or St. Pierre and Miquelon.)

- a) Where the person has a right of appeal to the IAB and requests a stay of execution (this stay of execution lasts for 24 hours from the time the adjudicator informs the person of his right of appeal);
- b) Where an appeal has been filed with the IAB (this stay of execution continues until the appeal is heard and disposed of or is declared abandoned by the IAB);
- c) Where an appeal has been filed with the Federal Court of Appeal (FCA) against the decision of the IAB, except a person referred to in A19(1)(g);
- d) Where the person advises an immigration officer, in writing of his intention to file an appeal with the FCA against the decision of the IAB except a person referred to in A19(1)(g);
- e) Where an appeal has been filed with the Supreme Court of Canada (SCC) against the decision of the FCA except a person referred to in A19(1)(g);
- f) Where the person advises an immigration officer, in writing, of his intention to file an appeal with the SCC against the decision of the FCA, except a person referred to in A19(1)(g).



- 2) The stay of execution referred to in c), d), e) and f) lasts until the appeal has been heard and disposed of or the time for filing an appeal has elapsed. As the time for filing varies under the different legislation, removal should not be effected without first consulting the regional Department of Justice representative to determine that no outstanding legal proceedings exist which would prohibit removal.
- 3) The re-opening of an inquiry under A35 stays the execution of a removal order pending the adjudicator's decision (A51(2)). When a request has been submitted to an adjudicator, in writing, to re-open an inquiry, removal will be deferred until such time as a decision is made as to whether the inquiry will be re-opened. If an adjudicator re-opens the inquiry pursuant to A35(1), the execution of the removal order will be stayed in accordance with A51(2).
- 4) A removal order shall not be executed where the execution would result in a violation of any other order made by any judicial body or officer in Canada (A52(1)(a)). This would apply to the prerogative writs and other court orders directed against the Commission to prevent removal. There must be some contemplation that the removal of an individual will directly violate the terms of the order.
- 5) A removal order shall not be executed if the person's presence is required in any criminal proceedings and the Minister stays the execution pending completion of the proceedings (A52(1)(b) and Instrument I-5). It would be appropriate to consider most criminal summons and subpoenas to fall within A52(1)(b).
- 6) a) A removal order shall not be executed if the person concerned was, at the time it was made, an inmate of a penitentiary, gaol, reformatory or prison or, before the order can be executed, becomes an inmate of such institutions (A52(2)).
b) The removal order shall not be executed until the person has completed the sentence or terms of imprisonment imposed or as reduced by a statute or other law or by an act of clemency.
c) Where an inmate under removal order comes within the terms of the Reciprocal Arrangement for the Exchange of Deportees Between Canada & the United States, follow instructions at IE 14.43.

*** 14.11 DEFERMENT OF REMOVAL - APPLICATIONS TO FEDERAL AND SUPREME COURTS OR OTHER LEGAL PROCEEDINGS**

- 1) The Act and Regulations do not provide for a stay of execution of a removal order where no formal appeal has been made but a Court has jurisdiction nonetheless, (e.g. application for review filed under Section 28 of the Federal Court Act, application for a writ of prohibition, injunction, etc.).



14.12 VOLUNTARY DEPARTURE

- 1) The Act provides that a person against whom a removal order is made may be allowed to leave Canada voluntarily to a country of his choice, unless the Minister directs otherwise (A54(1)).
- 2) Officers responsible for removal arrangements should take the initiative and suggest voluntary departure if circumstances warrant such action. This will allow the person concerned the dignity of making his own travel arrangements and at the same time relieve the Commission of some of the costs associated with removal. Voluntary departure is clearly not an option where the person is considered a danger to the public or is considered unable or unwilling to leave Canada at his own expense. See also paragraph 5 hereunder.
- 3) A reasonable period of time should be granted in order to allow persons to make arrangements for travel documents, transportation, disposal of property, etc. Officers should use their own judgment but, under normal circumstances, two weeks should be sufficient to enable the person to make proper arrangements.



- 4) Persons granted voluntary departure should be counselled to the effect that voluntary departure in no way negates the effect of the removal order and that permission from the Minister must be obtained before admission will be permitted (for the following 12 months in exclusion order cases). The person should be notified in writing of the date on which he is expected to leave Canada and informed that failure to meet the departure date makes him
- * liable to apprehension under A 104. To confirm departure, the instructions outlined in IE 14.50 should be followed. The use of the term "voluntary departure" is restricted to removal cases and should not be used in any other context, e.g., departure notice cases, except when dealing with cases falling within the terms of the Reciprocal Arrangement for the Exchange of Deportees between Canada and the United States. (See IE 14.38 and Appendix "B", Part X., which defines "voluntary departure" for the purposes of the Reciprocal Arrangement only.)
- 5) Voluntary departure should not normally be granted to a person who is wanted in his country for criminal offences or punishment (to serve a sentence). Officers will ensure that the Immigration Act is not used deliberately as a means to evade or frustrate the cause of justice in other democratic countries by allowing voluntary departure to a third country. However, the Immigration Act should not be utilized as a substitute to extradition legislation. Although voluntary departure should not be granted to fugitives, care will be exercised that removal is effected expeditiously in accordance with 14.13. If the person concerned is wanted for a crime in a country other than where his removal would normally be effected, then extradition proceedings should be initiated.

14.13 PLACE TO WHICH REMOVAL IS EFFECTED (A54)

- 1) Where voluntary departure is not allowed, then the person shall be removed from Canada to:
- a) the place from which the person came;
 - b) the country in which he/she last resided permanently before coming to Canada;
 - c) the country of which he/she is a national or citizen; or
 - d) the country of birth.
- 2) If removal cannot be effected to any of the alternatives mentioned above because no such country is prepared to receive the person, then the person may, if the Minister approves, select any other country that is willing to accept him within a reasonable period of time (A54(3)). The Minister can also choose another country that will accept the person within a reasonable period of time.



- 3) Detailed guidelines on the removal of persons to specific countries are considered to be privileged internal communications and are therefore not available for public scrutiny. Immigration officers should refer to chapter IC 3.21.

14.14 REMOVAL OF REFUGEES

- 1) A55 provides that a person afforded the protection of the United Nations Refugee Convention shall not be removed from Canada to a country where the person's life or freedom would be threatened on account of race, religion, nationality, membership in a particular social group, or political opinion. This protection does not apply to:
 - a) persons falling within A19(1)(c), (e), (f) or (g) or persons described in A27(1)(c) or A27(2)(c); or
 - b) a person who has been convicted in Canada of an offence under any Act of Parliament for which a term of imprisonment of ten years or more may be imposed.
- 2) In the cases referred to in a) and b) above, the Minister must be satisfied that the refugee should not be allowed to remain in Canada. Removal shall not be effected until the Minister has given his opinion.

14.15 DEPARTURE NOTICE

- 1) Under certain conditions, an adjudicator may issue a departure notice (IMM 1220) to a person instead of making a deportation order (A32(6)). A departure notice serves as an alternative to deportation in the case of a person in Canada, other than a permanent resident, who is found liable to removal on minor grounds. The issuance of a departure notice does not compel the person's departure. If the person fails to honour the conditions and does not leave, then a deportation order may be issued. A report under A27(2)(1) should be submitted on any person who does not leave in accordance with the terms of the departure notice. If departure is effected as scheduled, the issuance of the departure notice carries no after-effects.
- 2) A person against whom a departure notice has been issued who leaves as scheduled, but is not granted entry to any other country and returns to Canada, shall be allowed to come into Canada (A14(1)). (Refer to IE 2.32 for procedure relating to this situation).

14.16 ESCAPE OR ATTEMPT TO ESCAPE CUSTODY

The Act provides for prosecution of persons who escape or attempt to escape from lawful custody or detention (A95(d)). Initiation of prosecution action should
* be taken in accordance with IE 14.70.



14.17 PHOTOGRAPHS AND FINGERPRINTS - PERSONS UNDER REMOVAL ORDER

- 1) All1(2)(a) and All5(1)(n) and R44(1) provide for the taking of photographs and fingerprints of persons under removal order. The use of these provisions should be limited to situations where the photographs or fingerprints are necessary to identify the individual to the appropriate Embassy in order to obtain a travel document, or where there is strong suspicion that the person is likely to try to return to Canada without the Minister's Consent after a removal order has been made. The task of fingerprinting persons for this purpose should be performed, either on a voluntary basis or for a fee, by the local police authorities.
- 2) During the Committee hearings on the new Immigration Act, the then Minister made it quite clear that these provisions were incorporated to assist our officers to identify persons not identifiable by normal means, and persons who deny being the person referred to in criminal records. It was never intended that the fingerprinting and photographing provisions would be extensively used, and certainly not as a matter of course.
- 3) The following can be described as examples (under R44(1) and R44(2)) where fingerprints and photographs may be taken when the person is under a removal order or when there is a question of identity:
 - a) R44(1)

A removal order has been made and there is reason to believe that the person will or might return to Canada, i.e. multiple deports, convicted criminals and persons who indicate their intent to return.
 - b) R44(2)
 - i) The person is subject to a subsection 20(1) Report at a port of entry;
 - ii) the person is seeking admission at a port of entry with no documents or where there are reasonable and probable grounds to believe the identity documents are false;
 - iii) the person has been arrested pursuant to A104 for examination, inquiry or removal.
- 4) Individuals who have been reported under A27 have not been included because it is assumed that no question of identity will arise in these situations. Only in cases where the identity of the person is in doubt should officers authorize the taking of fingerprints and photographs to conclusively establish identity.



14.18 ASSISTANCE TO LEAVE CANADA

A122 provides for financial assistance to persons, other than persons under removal order, to leave Canada at the expense of the Commission. This authority, which has been delegated to the Directors, Immigration, may be used to assist persons who wish to accompany persons under removal order, e.g., wives, children (including Canadian-born), but cannot defray their own expenses without hardship.

14.19 SEIZURE OF DOCUMENTS

- 1) A111(2)(c) provides that immigration officers may seize and hold any travel or other documents in the possession of any person in Canada if he has reasonable grounds to believe the documents have been fraudulently or improperly obtained or to prevent fraudulent or improper use.
- 2) Officers who have reasonable grounds to believe that a passport or other travel document is fraudulent (see IC 3.15), or was fraudulently or improperly obtained, should seize the document. Suspect documents should be forwarded to NHQ in accordance with IS 22.21(3).
- 3) Other documents such as SIN cards which were obtained by fraudulent and improper means should be returned to the CEIC in accordance with IE 14.73.

*

14.20 ADVANCE NOTIFICATION OF REMOVAL ARRANGEMENTS TO FOREIGN GOVERNMENTS

- 1) From time to time, foreign governments request that they be notified automatically whenever one of their citizens is removed from Canada. Such requests have always been refused on the grounds that information in the Commission records is confidential and cannot be released without the consent of the person concerned.
- * 2) Notwithstanding the foregoing, in the case of persons being removed to the United States, the Commission has signed a formal reciprocal arrangement with the United States Immigration and Naturalization Service, the terms of which provide for the exchange of certain information concerning deportees. (See Appendix "B".) In addition, the Commission has been prepared to notify some foreign governments when certain categories of persons are removed to their jurisdiction. The receiving state must be advised in all cases in which the person under removal order requires institutional care. As well, in the instances cited in 14.58 to 14.62, we have agreed to notify the government concerned if the person has been admitted to Canada. Aside from the Reciprocal Arrangement for the Exchange of Deportees Between Canada and the United States, these agreements do not apply where persons are refused admission at ports of entry. As a general practice, information concerning persons under removal order will be made available to foreign governments on a reciprocal basis, but only where it is necessary to ensure the protection of the person (for example, deportees requiring special medical care or other attention) or of the community of destination (deportees who have been convicted of criminal offences). In all other cases, information in Commission records is confidential and cannot be released without the authorization of the person concerned.



- 3) When requests are received for release of information on persons from countries other than the ones with whom we already have an agreement, they should be advised of this policy. If they wish to initiate further discussions, they should be advised that their Embassy should make a formal request to External Affairs Canada.

14.21 REMOVAL OF PAROLED PERSONS

- 1) Section 13 of the Parole Act and A52(2) provide for the immediate removal of persons who are released on parole. This applies to all persons released on parole including persons serving sentences of less than two years whether the sentence was served in a Federal or Provincial institution.
- 2) Under subsection 15(2) of the Parole Act, persons under mandatory supervision are deemed to be in the same position as paroled persons. Therefore, persons who are released under mandatory supervision also can be removed from Canada.
- 3) Day parole is granted for temporary work, educational purposes, to "socialize"; in other words to prepare a prisoner to re-integrate into society. A person who is granted day parole should not be removed while on such parole.
- 4) No action should be taken against permanent residents who were ordered deported before the IAB Act, 1967 came into effect without consultation with NHQ.

14.22 - 14.29 SPARES



* PROCEDURES

14.30 REMOVAL TO THE UNITED STATES - RECIPROCAL ARRANGEMENT (See Appendix "B")

- 1) An Arrangement for the Exchange of Deportees was signed on July 24, 1987 by CEIC and U.S.I.N.S., which supersedes the outdated Arrangement of 1949. This Arrangement has been restructured to reflect current U.S. and Canadian legislative realities with a view to fostering a higher degree of cooperation and reciprocity in our mutual efforts to accomplish the expeditious removal of deportees from our respective countries.
- 2) The terms of the Reciprocal Arrangement apply equally to persons under removal order from the United States to Canada as from Canada to the United States.
- 3) Part X. of the Arrangement, a copy of which is found at Appendix "B", contains definitions of terms used specifically for the purposes of the Arrangement. This definitions section is intended to aid officers in the interpretation of the Arrangement.

14.31 REMOVAL UNDER THE RECIPROCAL ARRANGEMENT WITHOUT A LETTER OF CONSENT

1) Persons Being Removed to the United States

The following classes of persons may be returned to the United States without a letter of consent from the United States Immigration and Naturalization Service (U.S.I.N.S.):

- a) A person who is given permission to depart Canada voluntarily. For the purposes of the Reciprocal Arrangement only, voluntary departure includes:
 - i) a person against whom a removal order has been made and who is granted voluntary departure pursuant to A54(1); or
 - ii) a person who has been issued a departure notice; or
 - iii) a person who has become the subject of a direction for inquiry or has been arrested for inquiry and who is given permission to leave Canada voluntarily without going to inquiry.
- b) A person who is a citizen or national of the United States. In these cases, verbal notice of the deportee's return to the United States will be accepted by the Immigration Attaché at the United States Embassy in Ottawa where:
 - i) Citizenship or nationality in the United States can be satisfactorily established through presentation of a birth or baptismal certificate, a certificate of naturalization, a valid or expired passport, or other verifiable evidence of citizenship or nationality; and



- 11) The deportee does not require institutional care or treatment because of a mental or physical condition.

A national of the United States is a person who is not a citizen of the United States, but who owes permanent allegiance to the United States. (The status of persons living in United States Territories and Protectorates is found at Appendix "D").

Where a deportee who is a citizen or national of the United States requires institutional care or treatment because of a mental or physical condition (see also IE 14.33) or where evidence of citizenship or nationality cannot be satisfactorily established through documentation as in b)i) above, written notice of the deportee's removal to the United States must be sent to the Immigration Attaché at the United States Embassy in Ottawa.

- c) An alien to the United States who came into Canada directly from the United States and who was allowed into Canada under the authority of a Minister's permit provided written notice of the permit issuance is given to the immigration official in charge of the opposite U.S. port immediately after the permit is issued and provided verbal notice is given to the official in charge of the U.S. port opposite the Canadian port of exit within one year of the revocation or expiration of the permit or from the date of a final removal order, whichever is the later. (See 14.35.) Should difficulties arise, the Immigration Attaché at the United States Embassy should be contacted at the address contained in 2) below.
- d) A non-resident alien to the United States who is authorized to return to Canada from the United States pursuant to A77 provided the removal order under appeal is based on an A20 report and, at the time of the A20 report, the alien was seeking admission to Canada directly from the United States. In these cases, a formal letter of consent is not required if a written notice of the facts and circumstances of the case is given to the immigration official in charge of the opposite U.S. port of entry immediately upon the arrival of the person concerned in Canada and provided verbal notice of the alien's departure from Canada at the conclusion of the IAB hearing is given to the immigration official in charge of the opposite U.S. port prior to the person's departure. (See 14.36.)
- 2) Should difficulties arise in any case of a deportee being returned to the United States under the terms of the Reciprocal Arrangement, contact:

The Immigration Attaché
United States Embassy
100 Wellington Street
OTTAWA, Ontario
K1P 5T1

(Telephone: (613) 238-5335, Ext. 307).



3) Persons Being Removed from the United States to Canada

The following classes of persons may be returned to Canada without a letter of consent:

- a) A person who is authorized by U.S.I.N.S. to depart the United States prior to the commencement of deportation proceedings or subsequent to a deportation hearing. (See Parts V. and X. of Appendix "B" - Voluntary Departure.)
- b) A person who is a citizen of Canada. In these cases, verbal notice of the deportee's return to Canada will be accepted where:
 - i) Citizenship can be satisfactorily established through presentation of a birth or baptismal certificate, a certificate of Canadian citizenship, a valid or expired passport, or verifiable evidence of citizenship; and
 - ii) The deportee does not require institutional care or treatment because of a mental or physical condition.

Where a citizen of Canada requires institutional care or treatment because of a mental or physical condition (see also IE 14.33) or where evidence of citizenship cannot be satisfactorily established through documentation as in b)i) above, written notice of the deportee's return to Canada must be provided by the U.S.I.N.S. to the Chief, Western Hemisphere Bureau, Case Review Directorate, NHQ.

- c) An alien to Canada who entered the United States directly from Canada and who was paroled into the United States provided written notice of the grant of parole is given to the Manager of the Canadian port of entry opposite the U.S. port at which parole was granted immediately after the grant of parole, and provided verbal notice is given to the Manager of the Canadian port of entry opposite the U.S. port of exit within one year of the revocation or expiration of parole or from the date of a final removal order, whichever is the later. (See 14.35.)
- 4) Where either written or verbal notice is required, the notice must include sufficient identifying and biographic information to establish that the deportee is returnable under the terms of the Reciprocal Arrangement.
- 5) Both Immigration Services will accept telegraphic verification of birth in lieu of an actual copy of the birth certificate as evidence of citizenship.
- 6) a) When attempts are made with negative results to obtain confirmation of birth of a citizen of the United States, the Immigration Attaché at the United States Embassy should be advised of the sources contacted to avoid duplication of effort by his/her Service.



- b) If verification of birth in the United States is obtained through the appropriate Bureau of Vital Statistics via a telephone call, the Attaché will normally accept the word of an immigration officer that he/she confirmed the pertinent details. In this situation, please record the necessary data obtained from the Vital Statistics authorities, e.g. full name of deportee, date and place of birth, parents' names, registration number and date of registration.
- 7) a) The United States Immigration and Naturalization Service provides notices (written or verbal as appropriate) regarding the removal of Canadian citizens to the Chief, Western Hemisphere Bureau, Case Review Directorate, NHQ who will contact regional officials responsible for:
 - i) the area of the deportee's destination in cases involving special arrangements for reception, i.e., deportees in need of medical care/institutionalization;
 - ii) the port of entry at which the deportee is to arrive in Canada in those cases where no special arrangements for reception are necessary.
- b) Investigation in such cases may involve:
 - i) verification of birth in Canada or acquisition of Canadian citizenship;
 - ii) in cases of persons needing care upon arrival, the acceptance of responsibility for such care by relatives, other persons or institutions.

14.32 LETTERS OF CONSENT ISSUED UNDER THE RECIPROCAL ARRANGEMENT

- 1) Letters of consent are issued on behalf of:
 - a) Permanent resident aliens to the receiving country provided that:
 - i) the alien has not abandoned residence by residing in a third country; and
 - ii) the alien proceeded directly from the receiving country to the deporting country and was not admitted for permanent residence at that time; and
 - iii) formal request for consent to return the alien is made within one year from the date of a final order of deportation; and
 - iv) the alien came into the deporting country on or after August 1, 1949; and



b) Non-resident aliens of the receiving country provided that:

- i) the alien was denied admission at a port of entry and was ordered removed from the departing country; and
- ii) the alien proceeded directly from the receiving country to the departing country; and
- iii) formal request for consent to return the alien is made within one year from the date of a final removal order; and
- iv) in the case of a non-resident alien who requires medical evaluation or institutional care or treatment, appropriate arrangements for reception are made in the receiving country. (See also IE 14.33).

2) Persons Being Removed to the United States from Canada

Letters of consent are issued by:

The Immigration Attaché,
United States Embassy,
100 Wellington Street,
Ottawa, Ontario.
K1P 5T1

Formal requests for consent including background information and any required advance notifications (see IE 14.33 and 14.34) will be forwarded to the above address in duplicate. A copy of notice to the USINS port opposite (see Appendix "S") IMM 1093 (section 20 report) as well as a copy of either IMM 1214 (exclusion order) or IMM 1215 (deportation order) must be included with the request. All available evidence which verifies the deportee's identity and nationality should be included with the request (i.e., copies of birth certificates or baptismal certificates, copies of information pages of passports, alien registration cards and any other relevant documentation). Requests for letters of consent in detained cases will be given top priority.

3) Persons Being Removed from the United States to Canada

- a) The United States Immigration and Naturalization Service will refer all requests for letters of consent to NHQ where a review will be conducted to determine whether the person concerned meets the terms of the Reciprocal Arrangement. Letters of consent or refusal will be issued by NHQ.
- b) Investigation may involve verification of:
 - i) permanent resident status;
 - ii) institutional or police record; and
 - iii) in cases of persons requiring care upon arrival, the acceptance of responsibility for such care by relatives, other persons or institutions as appropriate.



IE 14.33

14.33 NOTICE REQUIRED IN CASES INVOLVING MEDICAL CARE OR TREATMENT

- 1) Advance written notice of the return of any deportee must be provided to the receiving country where the deporting country has evidence to suggest that medical attention because of a mental or physical condition is required. This includes citizens, permanent resident aliens and non-resident aliens.

- a) Citizens

In the cases of citizens of the receiving country who require medical care, written notice of the deportee's return must be accompanied by a written opinion of a competent authority (i.e. a medical doctor or an official of a medical institution) confirming the need for care or treatment. The advance written notice will provide the receiving country with a description of the facts and circumstances of the case. At the same time as notice is given or as soon as possible thereafter, the deporting country will notify the receiving country of the deportee's travel arrangements.

- b) Permanent Resident Aliens

- 1) At the time that a letter of consent is sought from the receiving country, advance written notice as in 1)a) above will be provided.
- ii) The grant of consent in the cases of permanent resident aliens will not be withheld because of a deportee's mental or physical condition.

- c) Non-resident Aliens

- 1) As in 1)b) above, the request for a letter of consent will be accompanied by advance written notice detailing the deportee's circumstances and medical needs.
 - ii) The return of non-resident aliens requiring medical care will be permitted providing the terms of Part III.2. of the Reciprocal Arrangement are fully met (see Appendix "B".)
- 2) a) It is the responsibility of the receiving country to arrange appropriate reception for deportees requiring medical attention or institutionalization because of a medical or physical condition. The deporting country will give the receiving country a reasonable opportunity to make appropriate arrangements for the deportee's reception before finalizing travel arrangements. However, where it is in the interest of the deportee and/or the deporting country to effect removal expeditiously because of excessive medical costs or the absence of relatives, the deporting country may provide appropriate assistance in making these arrangements.



- b) Normally, local consular officials will provide assistance in this regard. However, should difficulties arise, the Immigration Attaché at the United States Embassy in Ottawa should be contacted.

14.34 ADVANCE NOTICE - DEPORTEES OF INTEREST TO LAW ENFORCEMENT AUTHORITIES IN THE RECEIVING COUNTRY

Where the deporting service is aware that a deportee is or may be of interest to law enforcement authorities in the receiving country, advance notice of the relevant facts and circumstances of the case, including travel arrangements, will be provided along with notice of the deportee's return or along with the request for consent to return the deportee. The purpose of providing this information in advance of actual removal is to allow the receiving country's port of entry officials sufficient opportunity to ensure that appropriate procedures are in place to facilitate the transfer of the deportee at the port of entry and to take precautionary measures to ensure the safety and security of the public and officials where necessary.

14.35 NOTICE REQUIRED IN CASES OF ALIENS WHERE A MINISTER'S PERMIT IS ISSUED OR WHERE PAROLE IS GRANTED (See Part II.2 of Appendix "B")

- 1) For the purposes of the Reciprocal Arrangement, the issuance of a Minister's permit in circumstances warranting special consideration equates to the discretionary grant of parole as provided for in United States Immigration law for emergent reasons or for reasons deemed strictly in the public interest.
- 2) a) Where an alien seeks to come into Canada directly from the United States and is found to be inadmissible, it may nonetheless be desirable to allow the person forward on humanitarian or compassionate grounds or for reasons of national interest.
- b) While senior immigration officers do have authority to grant an inadmissible person discretionary entry under A19(3), it is important to note that the grant of any form of entry does not afford Canada any protection whatsoever under the terms of the Reciprocal Arrangement in the event removal action against an alien to the United States becomes necessary at some future date. The issuance of a Minister's permit in appropriate circumstances does, however, ensure that Canada's interests are protected should there be any doubt that the person concerned will voluntarily leave Canada as required, providing:
 - 1) A written notice of the facts and circumstances of the permit issuance is given to the official in charge of the opposite United States port immediately after the permit is issued. (A decentralized form (IMM 1443) has been developed for this purpose (see Appendix "C")); and



ii) Verbal notice of the alien's return is given to the receiving country within one year of revocation or expiry of the Minister's permit or from the date of a final order of deportation, whichever is the later.

3) As in 2)b)i) and ii) above, in order to ensure Canada's acceptance of a deportee who is an alien to Canada and who was allowed into the United States under parole, the responsible U.S.I.N.S official must provide written notice of the grant of parole immediately to the Manager of the opposite Canadian port of entry and must give verbal notice of the alien's return to Canada within one year of the revocation or expiry of parole or from the date of a final order of deportation, whichever is the later.

14.36 NOTICE REQUIRED - PERSONS AUTHORIZED BY THE IMMIGRATION APPEAL BOARD TO RETURN TO CANADA (A77) - See also IE 12.20

- 1) Persons residing or sojourning in the United States who are under a removal order made as a result of a report under A20(1) and who enter an appeal to the IAB will be removed from Canada (A51(1)) to await the disposition of the appeal in the United States. Such persons and those who decide to return to the United States on their own prior to an appeal may apply to the IAB to return to Canada to attend their appeal hearings (A77).
- 2) Where the Board has authorized the return of an alien resident of the United States, under A77, and the person concerned seeks to come into Canada specifically for this purpose, the officer in charge of the opposite United States port of entry must be notified in writing of the facts and circumstances of the case immediately upon the person's arrival. Alien residents of the United States will be permitted to return to that country if such written notice is given, if verbal notice is given to the officer in charge of the opposite U.S. port upon the alien's departure from Canada at the conclusion of the hearing and if the person otherwise meets the requirements of Part III.1.a., b. and d. of the Reciprocal Arrangement (see Appendix "B").
- 3) An alien who is not a permanent resident of the United States and who is authorized to return to Canada under A77 will be permitted to return to the United States providing:
 - a) The alien was the subject of an A20(1) report and was ordered removed from Canada on this basis;
 - b) The alien came to Canada directly from the United States;
 - c) Written notice of the facts and circumstances of the case is given to the officer in charge of the opposite United States port immediately upon the person's arrival in Canada; and



- d) Verbal notice is given to the officer in charge of the opposite United States port upon the alien's departure from Canada at the conclusion of the hearing.

14.37 TRANSPORTATION AND SUBSISTENCE - RECIPROCAL ARRANGEMENT

- 1) The departing country is responsible for covering transportation and subsistence costs on behalf of a deportee only to the port of entry in the receiving country which is nearest the port of exit in the departing country if the deportee has the financial means to travel to his/her last place of residence at his/her own expense.
- 2) Where a deportee is destitute and is clearly unable to finance his/her own travel to the last place of residence in the receiving country, the departing country is then responsible for paying transportation and subsistence costs to the person's last place of residence.
- 3) In exceptional cases, consideration may be given to providing a deportee with transportation and subsistence either beyond the border or to a place other than that at which the deportee last resided in the receiving country. Such consideration will normally be given in those circumstances where humanitarian and compassionate factors (such as the mental or physical condition of the deportee, the presence of supportive family members or required social services) make the choice of destination more appropriate than the last place of residence. The destination in cases meriting this exceptional treatment may either be closer or more distant than the person's last place of residence. In all such cases, however, the choice of final destination must be acceptable to both the departing and receiving countries.
- 4) Where a transportation company is liable to carry a deportee, the person concerned will be carried to such place as is required by law (A 86).

14.38 VOLUNTARY DEPARTURE

- 1) Persons granted voluntary departure as defined in Part X. of Appendix "B" are not governed by the terms of the Reciprocal Arrangement. For the purposes of the Arrangement, such persons are not deportees and are not, therefore, subject to any of the "consent" and "notice" requirements.
- 2) For the purposes of the Reciprocal Arrangement only, the definition of the term "voluntary departure" has been broadened to include situations in Canada where:
 - a) a removal order has been made;
 - b) a departure notice has been issued; or



IE 14.38

- c) a direction for inquiry has been issued or where the person has been arrested for inquiry but the person has been granted permission to leave prior to the inquiry's being completed.

14.39 OFFICIAL RECORDS AND PRIVACY CONSIDERATION

- 1) In keeping with the provisions of Canada's privacy legislation, information from the Commission's files may be provided to the United States Immigration and Naturalization Service for the following purposes:
 - a) To establish that a deportee is returnable under the terms of the Arrangement;
 - b) To ensure that appropriate arrangements for reception are made for deportees requiring medical care;
 - c) To facilitate port of entry procedures where safety and security factors may be indicated; and
 - d) To ascertain whether the deportee is wanted by U.S. law enforcement authorities.
- 2) Information from U.S.I.N.S. files may be provided to the Commission for the purposes stated in 1)a), b) and d) above. In cases involving criminality, however, i.e. those deportees wanted by Canadian police authorities, U.S. authorities will communicate directly with the R.C.M.P.
- 3) Fingerprints and photographs obtained under the authority of A111(2)(a) and A115(1)(n) will be furnished only when identity is in doubt. Criminal records are not required to be supplied as this information should be the responsibility of the RCMP.

14.40 PERSONS ISSUED A REJECTION ORDER OR A DIRECTION TO RETURN TO THE UNITED STATES FOLLOWING APPLICATION FOR ADMISSION AT A CANADIAN PORT OF ENTRY - RECIPROCAL ARRANGEMENT

- * 1) The "consent" and "notice" provisions of the Reciprocal Arrangement do not apply to the above cases. The person concerned will be in possession of the Rejection Order (IMM 1217) (see App. "G") or the Direction to Return to the United States (IMM 1237 (see App. "H") or IMM 1238) (see App. "I") issued under A20(2) or A23(4). Such persons should be returned as soon as practicable to the place from whence they came to Canada.
- 2) Persons under removal order made as a result of a report under A20(1) who enter an appeal to the IAB and who are residing or sojourning in the United States will be removed from Canada to await the results in the United States (A51(1)). See also IE 14.36.



14.41 REMOVAL ORDERS APPEALED OR OTHER LEGAL PROCEEDINGS INITIATED - RECIPROCAL ARRANGEMENT

- 1) Except in the case of a citizen or national deportee, where no time limit is specified for the provision of written or verbal notice of the person's return, all other notice and consent provisions of the Reciprocal Arrangement stipulate that certain time limits be observed to ensure the acceptance of a deportee by the receiving country under the terms of the Arrangement. (See IE 14.31 and 14.32).
- 2) For the purposes of the Reciprocal Arrangement, a "final order of removal" is defined in Part X. of Appendix "B". Where an appeal or other court action has been initiated by a person under removal order, the deporting country is given one year from the conclusion of all legal proceedings within which to comply with the notice or consent requirements of the Arrangement.

14.42 REMOVAL TO THE UNITED STATES FOLLOWING ISSUANCE OF DEPORTATION ORDER AFTER ADMISSION TO CANADA - RECIPROCAL ARRANGEMENT

- 1) Under the terms of the Reciprocal Arrangement citizens and permanent resident aliens of the receiving country are returnable if ordered deported after admission and if all other requirements of the Arrangement are met.
- 2) Subject to A51 and A52, a CIC may effect deportation
 - a) of a citizen or national of the receiving country providing the requirements of the Arrangement are met and providing existing policy on removals pending appeals or other litigation allows for this action;
 - b) of a permanent resident alien only if he/she comes within the terms of the Reciprocal Arrangement, providing existing policy on removals pending appeals or other litigation allows for this action and only after a letter consenting to the person's return has been obtained.
- 3) Non-resident aliens of the receiving country ordered deported after admission are not returnable under the terms of the Reciprocal Arrangement. When a deportation order is to be executed in the case of a non-resident alien after the alien was admitted, removal will be made in accordance with A54.
- 4) In all cases where a letter of consent is necessary, the responsible CIC will submit the request as outlined in IE 14.32(2).
- 5) Where the person is detained removal arrangements, including the notice and/or consent requirements of the Reciprocal Arrangement, are to be completed on a priority basis. Where formal consent is required for the return of a deportee such consent must be requested and given in writing.



14.43 PERSONS ORDERED REMOVED WHILE SERVING PRISON TERMS (See also IE 14.10(b)) - RECIPROCAL ARRANGEMENT

Where the consent or notice provisions apply to an inmate of a penitentiary, jail, reformatory or prison who has been ordered removed from Canada, the request for consent or the provision of notice must be given to the U.S. Immigration Attaché within one year of the issuance of the removal order or within one year of the final decision rendered in an appeal or other legal proceedings initiated by the person concerned against the removal order. The request for consent or the notice of the person's eventual removal will indicate that the execution of the removal order is deferred pending completion of the sentence.

14.44 PERSONS BEING EXTRADITED TO CANADA - RECIPROCAL ARRANGEMENT - See also IE 2.66

- 1) Persons extradited to the United States from Canada clearly come within the terms of the Reciprocal Arrangement since these persons (other than U.S. citizens or nationals) are granted parole.
- 2) To ensure that Canada's interests are protected under the terms of the Reciprocal Arrangement, particularly in the event removal of a U.S. permanent resident becomes necessary, all persons coming to Canada under extradition proceedings are to be examined. Particular attention must be given to U.S. permanent resident aliens extradited as, under U.S. immigration law, such persons would not have an automatic right to return to the United States.
 - a) Those who are found to be inadmissible will be issued Minister's permits. This will ensure that these persons are returnable to the United States under the Reciprocal Arrangement. The usual notice provisions as described in IE 14.35 apply.
 - b) Those persons who are admissible at the time of extradition will be dealt with in accordance with instructions contained in IE 2.66(6).
- 3) Since citizens or nationals of the United States can be returned to that country without consent, their removal from Canada, if necessary, would not be problematic.
- 4) Persons extradited to Canada from the United States and vice versa, who are not citizens, nationals or permanent residents of either country will be removed, if necessary, to their own countries.

14.45 ADMITTING OFFICER TO BE SATISFIED - RECIPROCAL ARRANGEMENT

NHQ may issue a letter of consent conditional upon the Manager at a port of entry being satisfied as to the authenticity of the documents and the identity of the deportee when such deportee and documents are presented by United States Immigration.



14.46 ACCEPTANCE OF DEPORTEES AT CANADIAN PORTS OF ENTRY - RECIPROCAL ARRANGEMENT

1) Receipts for Deportees from the United States

Upon accepting a deportee from the United States Immigration and Naturalization Service, the officer-in-charge or someone on his/her behalf will:

- a) satisfy himself/herself that the deportee may be accepted;
- b) ensure by personal count and inspection that all items for which he/she signs have, in fact, been turned over; and
- c) sign the appropriate receipts for the United States Immigration and Naturalization Service.

2) When Letter of Consent Presented

When a letter of consent is presented on behalf of a deportee from the U.S.A., the examining officer will:

- a) retrieve the letter;
- b) affix the port stamp and record on the letter the deportee's destination and details of transportation and subsistence or the amount of money in his/her possession as appropriate;
- c) mail the letter of consent directly to the issuer for completion of the file.

14.47 DEPORTATION FROM THE UNITED STATES THROUGH CANADA TO OTHER COUNTRIES

Such deportees are in transit while in Canada and are to be accompanied to the Canadian port of departure by an escort officer of the United States Immigration and Naturalization Service. The escort officer is not required if the deportee is carried by aircraft merely stopping at a Canadian airport en route to the third country or if the deportee is on board a ship en route to a third country. A91(2) gives an immigration officer the right to order a person, who is not seeking to come into Canada, detained on board a vehicle. Appropriate advance information will be provided by the United States Immigration and Naturalization Service. Normal visitor visa requirements must be met by deportees in transit through Canada to a third country.



14.48 EXECUTION OF DEPARTURE NOTICE

There is only one condition that must be met before compliance with a departure notice occurs: the person concerned must leave Canada by the date specified in the notice. Notwithstanding the above, a person who leaves Canada but returns pursuant to A14(1)(c) comes within the removable class described in the second part of paragraph 27(2)(i) of the Act. The following will provide a clearer concept of the situations that can develop.

- 1) A departure notice is issued. The person concerned fails to leave Canada by the date specified in the departure notice:
 - a) a report must be made pursuant to A27(2)(i) - "has not left Canada on or before the date specified in a departure notice that was issued to him.....";
 - b) we cannot issue a Minister's Permit as the person concerned is a person to whom a departure notice has been issued who has not left Canada - A37(2)(b);
 - c) we issue a Direction for Inquiry pursuant to A27(3).
- 2) A departure notice is issued. The person concerned leaves Canada on or before the date specified but is not granted lawful permission to be in any other country and returns to Canada pursuant to A14(1)(c):
 - a) pursuant to A12(2), where a person leaves Canada and thereafter seeks to return to Canada, whether or not he was granted lawful permission to be in any other country, he shall be deemed to be seeking to come into Canada;
 - b) the examining officer determines that the person being examined by him is a person to whom a departure notice has been issued and who has otherwise left Canada in compliance with that notice but has not been granted lawful permission to be in any other country. Consequently, the officer must allow that person to come into Canada pursuant to A14(1)(c). However, no status is given to the person concerned;
 - c) a report must be made pursuant to A27(2)(i) - "having so left Canada (on or before the date specified in a departure notice), has been allowed to come into Canada pursuant to paragraph 14(1)(c)". In order to allow the subject the opportunity to execute the original departure notice, the new inquiry should normally be scheduled after the expiry date of the first notice;
 - d) in this situation a Minister's Permit may be issued as the person concerned, "... having so left Canada ..." A27(2)(i) has been allowed to come into Canada pursuant to A14(1)(c);



e) issuance of a Minister's Permit is purely discretionary and in normal circumstances, a Direction for Inquiry would be issued pursuant to A27(3).

- 3) The factors outlined in paragraph two 2) apply even when the person concerned leaves Canada after the date specified in the departure notice but is not granted lawful permission to be in any other country.
- 4) A departure notice is issued. The person concerned leaves Canada, goes into another country without lawful permission, and comes back into Canada by unlawful means:
 - a) a report would be made pursuant to paragraph A27(2)(f) or A27(2)(g), as appropriate;
 - b) a report pursuant to A27(2)(i) is not applicable as the person concerned has left Canada but has not returned to Canada pursuant to A14(1)(c).

14.49 VERIFICATION OF COMPLIANCE WITH TERMS OF DEPARTURE NOTICE

1) Advice to Person Concerned

When an adjudicator issues a departure notice (IMM 1220) (see App. "J"), he will inform the case presenting officer who will then advise the person concerned to make the necessary transportation arrangements and report in person to the CIC responsible for the case as soon as the arrangements are completed and tickets obtained.

2) Notification by Case Presenting Officer to CIC

Following the issuance of a departure notice, the case presenting officer will advise the responsible CIC by way of a copy of the form. The CIC will notate their file and wait for the person concerned to contact the office.

3) Report by the Person Concerned

When the subject of a departure notice reports to the CIC, the officer handling the case will verify that the travel arrangements are finalized for departure within the stated departure date. The officer will also determine that the person can proceed to his destination, e.g., passport or travel document in order, necessary visas obtained (if applicable), etc.

4) Issuance of Confirmation of Departure Form (IMM 56) (see App. "K")

When the officer is satisfied that the person concerned possesses tickets and proper documentation to leave Canada and the date of departure meets the terms of the departure notice, he will issue a confirmation of departure form addressed to the Manager at the port of departure informing him of the pertinent information and request that verification of departure be made.



The form will be given to the person concerned in a sealed envelope and he should be advised to present the envelope to the CIC at the port of his departure just prior to leaving. The file should be BF'd for an appropriate period of time after the departure date for follow-up purposes.

5) Action by CIC at Port of Departure

- a) When a person under departure notice proceedings presents himself and the IMM 56 to an officer at the CIC prior to leaving, the officer will retain the form and verify that the person leaves in accordance with the arrangements.
- b) After the person has departed on schedule, the officer will notate the IMM 56 with appropriate details such as airline, flight number, time, and port date stamp. For persons departing to the United States by automobile, the officer will record the licence plate details of the vehicle, time of departure and port date stamp.
- c) The original verification of departure letter should be returned immediately to the issuing CIC.
- d) If the original IMM 56 (copy 1) is not received from the port of entry within a reasonable period of time (two weeks), a telex follow-up will be sent to determine if the person concerned reported prior to departure. If the reply is negative, a report pursuant to A27(2)(i) should be submitted.
- e) Instructions for completion of IMM 56 are continued in ID 4.

14.50 VERIFICATION OF VOLUNTARY DEPARTURE

1) Advice to Person Concerned

When a person under removal order is granted the privilege of voluntary departure, the responsible CIC will instruct the person concerned to settle his personal affairs and make transportation arrangements in order to effect departure within the time frame allotted. The person concerned will be advised to return to the office with his completed transportation documentation.

2) Report by Person Concerned

When a person who has been granted voluntary departure reports back to the CIC, the officer handling the case will verify that the travel arrangements are completed and the intended departure date complies with the date granted. The officer will also determine that the person can proceed to his destination, e.g., passport or travel document in order, necessary visas obtained (if applicable), etc.



3) Issuance of Confirmation of Departure Form (IMM 56)

When the officer is satisfied that the person concerned possesses tickets and proper documentation to leave Canada and the date of departure meets the terms laid down, he will issue IMM 56 addressed to the Manager at the port of departure informing him of the pertinent information and request that verification of departure be made. The form will be given to the person concerned in a sealed envelope and he should be advised to present the envelope to the CIC at the port of his departure just prior to leaving.

4) Action by CIC at Port of Departure

- a) When a person granted voluntary departure presents himself and the IMM 56 to an officer at the CIC prior to leaving, the officer will retain the form and verify that the person leaves in accordance with the arrangements.
- b) After the person has departed on schedule, the officer will notate the IMM 56 with appropriate details such as airline, flight number, time and port date stamp. For persons departing to the United States by automobile, the officer will record the licence plate details of the vehicle, time of departure and port date stamp.
- c) The original verification of departure letter should be returned immediately to the issuing CIC.

5) Failure to Depart

When the IMM 56 (copy 1) is not received from the port of entry within a reasonable period of time (two weeks), a telex follow-up will be sent to determine if the person concerned reported prior to departure. If the reply is negative, a warrant for arrest should immediately be obtained. The pertinent particulars should be entered in the RCMP CPIC system.

14.51 TRAVEL DOCUMENTS AND LETTERS OF CONSENT - DETAINED CASES

1) Prolonged Detention to be Avoided

Detained persons awaiting inquiry, appeal or other legal proceedings, may not be in possession of travel documents, which could delay execution of the removal order if confirmed by the IAB or the Courts. To avoid prolonged detention in such cases, arrangements will be made to obtain travel documents or letters of consent pending the inquiry, appeal hearing or other litigation.



IE 1.1.5

2) Advice to Authorities

When corresponding with the authorities concerned, it should be made clear that a removal order may be issued or if issued, is under appeal or other action, and that the arrangements to obtain a travel document are being undertaken solely to reduce the period of detention to a minimum should removal be ordered or directed. It should be added that, in the event a removal order is not issued or the IAB does not direct removal action, or should the person concerned otherwise successfully challenge the validity of the order, the authorities concerned will be informed immediately.

3) "Top Priority" Extended to All Detained Cases

- a) Top priority will be accorded all action in a detained case.
- b) In all detained cases, it is essential that a "DETAINED" sticker (IMM 476) (see App. "L") be placed on each piece of correspondence pertaining to such cases which is sent to NHQ and to the IAB so as to alert them to the urgency of the case.
- c) The Quebec Court of Appeal found in the case of Cushnie that the Commission had made insufficient efforts to ascertain citizenship. In all cases, prompt and reasonable efforts should be made to ascertain the detainee's citizenship with a view to effective execution of the removal order.

14.52 ADVICE TO TRANSPORTATION COMPANIES - DETAINED CASES

1) Advance Notice to all Carriers

Transportation companies responsible for removal and/or detention costs in detained cases will be informed in advance that they will subsequently be notified on IMM 1216 of their liabilities should the appeals either be withdrawn or dismissed (and execution of the removal orders directed by the IAB), or the persons concerned be unsuccessful in their litigation in the Courts. Background details will also be provided, in the advance notice, so that any required investigations by the carriers can be conducted prior to removal thereby further reducing detention periods (IE 1.22 refers).

2) Special Advice to Air Carriers

Air carriers involved will be informed in the advance notice, whenever possible, of inbound ticket numbers, routing to Canada, other carriers involved en route, flight numbers and dates. Such details will facilitate acceptance of liability and also assist the principal carriers in prorating removal costs to any other carriers involved.

4.53 ADVANCE NOTIFICATION TO AIRLINE COMPANIES OF PERSONS BEING REMOVED

- a) The Canadian Airline Pilots Association expressed concern over the lack of information provided to airline captains on persons under removal order who are being carried on their aircraft.



- 2) It is recognized that the prime responsibility of every airline captain is the safety of passengers and crew and the security of the aircraft. To comply with this request, a "Notice of Removal" form (IMM 1253) (see App. "M") was designed for presentation to the airline's booking officials. The form is to be completed in all cases where a person under removal order is being placed on an aircraft. Persons subject to the departure notice provisions or effecting voluntary departure are not to be so reported.
- 3) The Notice of Removal is designed to provide background information relevant to a decision as to the necessity of an escort being required. Because this decision rests solely with the airlines and their captains, it is vital that the "Comments" section of the IMM 1253 provide sufficient background, particularly covering the period during which the individual was in immigration custody, to allow an informed determination. Under no circumstances should a statement such as "In my opinion (or the Commission's opinion) an escort is not required" be used on the form.
- 4) If the airline decides that an escort is required, and the Commission is financially responsible for the person's removal, then the Commission will defray the cost of an escort. If the airline is financially responsible, then it is incumbent upon the airline to provide the escort officer. C.P. Air will not carry any person under removal order who has been convicted of an offence under the Narcotic Control Act unless the person is escorted.
- 5) The only exception to the rule that the final decision concerning an escort rests with the airline, is for escorts provided under the Canada/United States agreement outlined in 14.65, which applies to removal via the United States of persons deported after admission to Canada. If an airline does not require a person under removal order to be escorted, but the person must deplane in the U.S.A. en route to a third country, the Commission is obligated to arrange for an escort unless other arrangements are made with the U.S. Immigration Service.
- 6) In recognition of the large sum of money involved in escorting some persons, the Deputy Minister has requested that the Regional Director, Immigration, be informed of cases in which the airline requires an escort and the individual is being removed at the Commission's expense.

14.54 NOTIFICATION TO POSTS ABROAD OF PERSONS UNDER REMOVAL ORDER

1) Sensitive Cases

Where an officer considers that a case is contentious or potentially sensitive, or where instructions must be issued to or assistance obtained from a post abroad, details of the case will be telexed to the officer-in-charge of the post concerned with as much advance warning as possible (see 1)b) below). Copies of the telex shall be sent to the Director General, Operations Branch and to External Affairs, Attention: SIM and ZSS. Contentious or politically sensitive cases may include instances where the removal has obvious political overtones, where the person may pose a



physical threat to our overseas missions or may be of considerable political interest to our embassy abroad, or where a person being removed may encounter difficulties in countries he will transit while en route to his own country due to the particular customs, religion, political beliefs or unsettled political situation of the countries he will transit.

a) Information Required - Telexes to Post Abroad

The telex should contain the proposed date of removal and itinerary, the reason for removal, citizenship, the type and validity of the travel document, any criminal or terrorist background, the attitude of the person concerning his removal (i.e. is the person likely to resist forcibly or take other measures such as last minute court action to delay removal), the names and passport particulars of any escort, and any other information which may be useful.

b) Lead Time Required

When dealing with sensitive cases, telexes must, wherever possible, be received by the officer-in-charge of the post concerned at least seven days prior to the proposed removal in order that all necessary arrangements can be completed. However, in port of entry cases, this lead time may not be possible. In such cases, officers must ensure that either telex or telephone notification is made as soon as possible in order to avoid the development of embarrassing or difficult situations.

2) Removals to Hong Kong, Ghana and Nigeria

Some posts have specifically requested that they be informed of all persons who have been subject to removal orders to their area so that a record will be available in the event the person applies for a visa. Particulars of removal orders will be forwarded to the following E&I posts along with an information copy to the Director General, Enforcement Branch, NHQ and the Enforcement and Control Section, Program and Policy Coordination Division, Immigration Affairs Branch, External Affairs.

- a) Hong Kong - a copy of the removal order (IMM 1214 and IMM 1215) and confirmation of departure form (IMM 56) will be forwarded for all persons removed to Hong Kong;
- b) Abidjan - similar documentation as mentioned in a) above will be forwarded for all persons removed to Ghana;
- c) Lagos - similar documentation as mentioned in a) above will be forwarded for all persons removed to Nigeria.

3) Removal to Chile

Citizens of Chile do not automatically have the right to return to that country; the Chilean government maintains a list of more than 3,700 persons who are prohibited from entering Chile. Before any removals to Chile are arranged, visa officials in Santiago should be consulted to ensure that the person being removed will be allowed to enter. A minimum of forty-eight



hours is required provided the telex request is sent with "deliver by" precedence. Both family names of the subject of the enquiry must be provided to allow correct identification.

Should a person be on the list of prohibited citizens, the legislative provisions for removal in section 54 of the Act apply.

4) Preamble - All Telexes to Posts Abroad

Every telex concerning removals whether sent to posts abroad by External Affairs or directly by an Immigration office will contain an instruction in its preamble that it must be brought to the attention of the head of the post, the SIO and the RCMP liaison officer, if applicable.

14.55 REMOVAL ARRANGEMENTS

1) At Ports of Entry

- a) Removal arrangements will be made by the responsible CIC. Persons residing or sojourning in the United States or St. Pierre and Miquelon against whom the removal order was made as a result of a report under A20(1) will be returned immediately notwithstanding any appeal that may have been entered.
- b) Persons from non-contiguous territory who do not or cannot enter an appeal will be removed on the first available transportation.
- c) In cases where the person has the right of appeal to the Board and requests a stay of execution, this will be granted until 24 hours have elapsed from the time he was informed of his right of appeal pursuant to A36, and if an appeal is made, until the appeal has been disposed of. The deferment of removal policy outlined in 14.11 should also be followed when applicable.

2) At Other Than Ports of Entry

District Administrators or Managers will be responsible for making removal arrangements for:

- a) persons ordered deported at other than ports of entry; and
- b) persons ordered deported or excluded at ports of entry who were allowed to await the outcome of an appeal in Canada.

3) Time Allowed to Settle Personal Affairs

- a) Persons who are released on bonds will normally be given the opportunity to depart voluntarily if they are willing and able to leave of their own accord and they will be given a reasonable time to settle personal affairs and make travel arrangements. Persons who are to be removed (other than those detained or in institutions) will also be given an opportunity to settle their affairs. Persons in detention will be removed with a minimum of delay.



- b) The determination of a reasonable period of time will vary with the individual case but a period of at least 14 days has been used over the years and appears reasonable. While the Commission does not wish to deal arbitrarily with individuals, it must also be remembered that A50 imposes a duty to carry out removal and this should be done without any unnecessary delay.

4) Written Notification to Persons Under Removal Order

Persons under removal order and their counsel, if any, will be advised, in writing, of the date on which removal is to take place and, if the individual is in a mental hospital, penitentiary, gaol or other institution notification will be sent to the director of the institution. The notification to a director of an institution should include a completed IMM 419 (see App. "N") (order to detain under A106).

14.56 REMOVAL ARRANGEMENTS - TRAVEL DOCUMENTATION

1) Removal on Strength of Expired Passports, Birth Certificates or Other Identification

Frequently, it is possible to effect removal without a valid passport as most persons do not require a valid passport to enter their country of nationality. Admission as a citizen is usually granted if the person can convince the examining officer that he is a national of the country. An expired passport, birth certificate, national identification card or any other recognized document which contains personal biographical particulars may be sufficient. However, travelling without a passport via countries en route may prove difficult. Before proceeding to effect removal without a valid passport or travel document, concurrence of the transportation carrier(s) will be necessary.

2) Removal without Travel Documentation

- a) Air Canada will accept a person under removal order without documentation provided he is a citizen of the country to which he is being returned directly. This arrangement only applies on flights where Air Canada is the sole carrier. Requests should be forwarded to Facilitation, Air Canada, 1 Place Ville-Marie, Montreal, H3B 3P7.
- b) C.P. Air will accept a person under removal order without documentation but they will be required to obtain prior approval from the immigration authorities at the country of destination before transporting the person. All requests for the carriage of undocumented persons should be made directly to the Facilitation Manager, C.P. Air, Vancouver International Airport Central, Vancouver, V7B 1V1.



3) Travel Documents

- a) With the exceptions of those areas named in IC 3.22 a), passports and travel documents for persons under removal order will be obtained by the CIC handling the removal arrangements through local Consulates agreeable to issuing such documents, or through Embassies and High Commissions in Ottawa. The booklet "Diplomatic Corps and Consular and other Representatives in Canada", produced by External Affairs Canada bi-annually, will be of assistance in contacting foreign missions. This booklet may be obtained from Printing and Publishing, Supply and Services Canada, Ottawa, K1A 0S9.
- b) Detailed procedures dealing with the contacting of certain foreign embassies/consulates are considered to be privileged internal communications and are therefore not available for public scrutiny. Immigration officers should refer to chapter IC 3.22.
- c) Where a country does not have an Embassy or Consulate in Canada, immigration officers must not directly approach its Embassy in the United States with a request for a travel document. Requests of this nature will be referred to the Director General, Operations Branch, Immigration NHQ for onward transmission to External Affairs. External Affairs will ensure an approach is made through our Embassy in Washington.
- d) Each foreign mission requires a variety of information and documentation. Some missions insist on completed application forms, while others may only require a letter. Contact the mission concerned to ascertain what information is necessary. If application forms are required, copies can be dispatched by the mission. The most important facts to be established are the identity and citizenship of the person. When such evidence is not available, difficulties occur and detention may be prolonged.
- e) All requests for travel documents should normally include the following information and documentation:
 - i) Complete name and full particulars of birth;
 - ii) Names, places and dates of birth and present address of parents and similar details, where known, of other family members or close relatives residing in the country concerned;
 - iii) Last place of residence of subject in the country of citizenship;
 - iv) Date of arrival in Canada and status granted;
 - v) Reason for removal in narrative form (sections of the Act and Regulations should be quoted). When deportation is based on criminality, full details should be provided of all known convictions, including dates, places of convictions, and sentences imposed;



- vi) Complete physical description; two passport-size photographs, one to be certified on the reverse side to the effect that it is a true likeness of the person concerned;
- vii) Expired passport, seaman's identity card or other books or documents which might help in establishing the citizenship of the person concerned.

4) Disposition of Travel Documents

When a travel document is obtained from a foreign mission and subsequently the original passport held by the person under removal order is located prior to departure, the mission concerned should be contacted by telephone, as a matter of courtesy, to ascertain which document should be utilized. This gesture of cooperation may assist in future endeavours to obtain documents. Contact with foreign missions where the services of External Affairs Canada, Consular Division, were used should continue through that Department rather than direct. Documents obtained by External Affairs should be routed to them for return.

5) Visa Requirements

When a person will transit a country where a visa is required, the necessary visa should be obtained prior to the person's removal from Canada.

14.57 ADVANCE NOTIFICATION TO RCMP OF REMOVAL OF PERSONS FOR CRIMINAL OR DRUG OFFENCES

- 1) The RCMP have requested that they be notified of persons removed from Canada for criminal or drug convictions to countries other than the U.S.A. In some instances this information is necessary to allow foreign police authorities to question persons concerning suspected offences in their own country.
- 2) All CICs shall inform their nearest RCMP Immigration and Passport Section, or local RCMP Detachment, whenever a person is being removed to a country other than the U.S.A. as a result of having been convicted of an offence as outlined in paragraph 18(1)(d) and subparagraph 18(1)(e)(ii) of the 1952 Immigration Act and paragraphs 19(1)(c), 19(1)(d), 19(2)(a), 19(2)(b), 27(1)(a), 27(1)(d), 27(2)(a) (Criminal convictions only), or 27(2)(d) of the Immigration Act, 1976.
- 3) The RCMP should be advised of the following particulars in each case:
 - a) full given and surname of person being removed;
 - b) date and place of birth and address in home country;
 - c) passport particulars;
 - d) date and time of departure and name of transportation company;



e) destination, date and time of arrival, and countries in transit;

f) reason for removal i.e., convicted of an offence.

- 4) The information should be passed to the RCMP by telephone or other available means, with a letter confirming the action, once the removal arrangements have been finalized.

14.58 ADVANCE NOTIFICATION OF REMOVAL OF PERSONS TO THE UNITED KINGDOM

1) Advice to British High Commission

Officers making transportation arrangements for persons, or becoming aware of travel arrangements made by persons given voluntary departure, will provide advance notification to the Passport Officer, British High Commission, 80 Elgin Street, Ottawa, Ontario, K1P 5K7, for the following:

- a) Persons destined to the United Kingdom who are criminals, drug addicts, undesirables or requiring special care and reception; and
- b) Persons who are criminals, drug addicts, undesirables, or requiring special care and reception who are travelling via the United Kingdom escorted or unescorted. In these cases, three working days' advance notice will be given to the British High Commission so that they can notify their Home Office to ensure proper security is instituted.

2) Advice to EANDI, London, England

In all cases of persons under removal order to the United Kingdom, a telex is to be sent by the officer making the removal arrangements to EANDI, London, England. This will include the following information as applicable:

- a) Name, date and place of birth of person under removal order;
- b) Reason for removal order;
- c) Name of carrier, flight number, port of arrival, date and time of arrival;
- d) Whether United Kingdom authorities have been notified.

14.59 ADVANCE NOTIFICATION OF REMOVAL OF PERSONS TO HONG KONG

1) Advice to British High Commission

The Passport Officer, British High Commission, 80 Elgin Street, Ottawa, Ontario K1P 5K7, should be provided with the following advance information in all cases of removal to Hong Kong because of criminal activities unless the person has been issued the travel document at our request:

- a) Full name and aliases, if any;



- b) Date and place of birth;
- c) Travel document (type, number, date and place of issue);
- d) Reason for removal and available details of criminal record;
- e) Transportation arrangements (airline, flight number, date, time of arrival, or ship, departure port, date, arrival port, arrival date).

2) Removal of Deserting Seamen to Hong Kong

A Seaman's Identity Book, whether valid or invalid, cannot be used for return to Hong Kong. A deserting seaman is not entitled to hold this document and it must be returned to Hong Kong. The return of seamen is subject to the issuance of a visa on a form of affidavit. Visas can be issued by the British High Commission without reference to Hong Kong provided they are satisfied the person being removed is identical to the holder of the Seaman's Identity Book, and has not been granted permanent residence in any country outside Hong Kong.

3) Action by CIC in Removal of Deserting Seamen to Hong Kong

- a) When a seaman deserter is apprehended and ordered deported, the CIC will:
 - i) forward the Seaman's Identity Book and any other documents of identity to the Passport Officer, British High Commission, with a brief covering letter outlining the circumstances and background;
 - ii) forward a recent passport-size photograph, certified on the reverse as to the identity of the person concerned;
 - iii) forward a statement indicating that the person has not obtained permanent residence in Canada and that there is no evidence to indicate that permanent residence has been acquired elsewhere outside Hong Kong. If the British High Commission is satisfied that the conditions under which they can act without reference to Hong Kong are met, they will advise the appropriate CIC and forward a visa application card and a form of affidavit for completion by the seaman. Upon completion of the forms, the CIC will:
 - A) affix a passport-size photograph identical to the one previously certified (photograph must be firmly affixed with an adhesive substance, not stapled);
 - B) have the affidavit sworn by an immigration officer and have the photograph embossed with the CIC stamp;
 - C) return the completed forms to the British High Commission who will issue the visa and return the affidavit to the CIC responsible for removal arrangements.



- b) Other cases, such as seamen without Identity Books or with criminal records, will have to be referred to Hong Kong for approval. Therefore, the CIC will submit the request to the British High Commission as soon as possible after deportation has been ordered, whether the person has entered an appeal or not, simply to save time in the event any appeal is dismissed.

14.60 ADVANCE NOTIFICATION OF REMOVAL OF PERSONS TO AUSTRALIA

1) Advice Required by Australian Authorities

The Australian authorities should be provided with the following advance information in all cases of removal to Australia when such action is based on criminal activities:

- a) Full name, date and place of birth;
- b) Travel document details (type, number, date and place of issue);
- c) Names and addresses of parents and next of kin in Australia;
- d) Particulars of original entry to Australia (date, port, and vessel or aircraft flight number) if deportee is not an Australian citizen;
- e) Reasons for removal and available details of criminal history;
- f) Estimated time, means and port of arrival in Australia.

2) Dispatching of Information

The information in 1)a) to e) above will be sent by the CIC concerned direct to the Australian High Commission, 130 Slater Street, Ottawa, Ontario, K1P 5H6, as soon as the decision to remove is confirmed. Details of transportation (see 1)f) above) will also be sent direct. If the removal of the person is imminent, the information will be sent by telex.

14.61 ADVANCE NOTIFICATION OF REMOVAL OF PERSONS TO THE PHILIPPINES

- 1) To comply with a request from authorities in the Philippines, the CIC concerned will provide the following details to the RCMP Liaison Officer in Makati Rizal (Manila) as soon as removal arrangements are known in all cases where persons are removed to the Philippines as a result of having gained entry to Canada by the use of fraudulent passports or other documents:

- name, date of birth, mode of travel to the Philippines, date and time of arrival, details of travel documents.

- 2) In cases where voluntary departure is taken, advance notice, with as much detail as possible of the probable date of departure, must be sent to the liaison officer with subsequent follow-up date if and when more information becomes available.



14.62 ADVANCE NOTIFICATION OF REMOVAL OF PERSONS TO FRANCE

To comply with a request from French authorities, the CIC concerned will notify the Drug Enforcement Branch, RCMP Headquarters in Ottawa, as soon as possible whenever a French citizen is to be removed as a result of being convicted of a drug offence. Such notification will include the name of the individual as well as the date of departure and flight number in order that RCMP Headquarters can immediately notify their liaison officer in Paris (refer to 14.57).

14.63 ADVANCE NOTIFICATION OF REMOVAL OF PERSONS TO ITALY

When a person being removed to Italy requires special medical care, or is a criminal, narcotics violator, suspected member of organized crime, terrorist, subversive, wanted for criminal offences in Italy, or is involved in passport forgery, notify the Italian Embassy of the following details:

- a) name of deportee, date and place of birth;
- b) reasons for removal;
- c) travel document (type, number, date and place of issue);
- d) travel arrangements.

14.64 REQUEST FOR CONFIRMATION OF VITAL STATISTICS IN THE UNITED STATES

1) Confirmation of Birth - Citizens of U.S.A.

The U.S. Immigration Attaché, Ottawa, has provided a list of State Vital Statistics Offices for the 50 states, District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands, American Samoa, the Trust Territory of Pacific Islands and the Northern Mariana Islands (see Appendix "E"). This list may be useful in verifying the birth records of United States citizen deportees when necessary.

2) Telegraphic Verification of Births in the United States

- a) Most vital statistic agencies will send a collect telegram to the requester verifying the birth details of a person under removal order. The officer must be satisfied that the telegram is authentic and relates to the person before accepting it as proof.
- b) To obtain confirmation of birth particulars in New York City, telegrams must be in the following form:

"I have been authorized by (John Doe) to obtain confirmation of the birth of (John Doe) on (date) at New York City in (borough), son of (father) and (mother). Please confirm birth particulars by collect telegram."



and sent to: Director of Vital Statistics
Department of Health, 125 Worth Street
New York, N.Y. 10013

- c) To obtain confirmation of birth particulars concerning persons under removal order born in Georgia, all requests should be made through the Immigration Section of the Consulate-General in Atlanta. All relevant information should be included with your request. The findings of the search made by the Department of Human Resources will be telexed to the Canadian office concerned. If a birth certificate is required, the same procedure will apply and it will be picked up by the Consulate-General staff who will forward it to the interested office. All costs will be borne by the Consulate-General's office.
- d) Due to specific requirements in the following states, requests may be made through the responsible Canadian consulate to obtain confirmation of birth particulars:
 - i) Connecticut - This state insists upon a written government request accompanied by the written consent of the individual concerned.
 - ii) Iowa - Their search fee has now been waived but they have asked that all requests for birth verification be routed through the Minneapolis office;
 - iii) New Hampshire - Prior to a records search, a \$3.00 fee must be paid;
 - iv) Oklahoma - No birth information is provided without a letter of authority from the person concerned plus particulars of his parents, including his mother's maiden name. A \$2.00 search fee is charged;
 - v) Texas - This state keeps statistics on a county basis and there is a search fee of \$3.00. Every county except Dallas requires the consent of the individual concerned before releasing birth particulars;
 - vi) Wisconsin and Nebraska - There is a mandatory search fee. Wisconsin will bill the Chicago office, and Nebraska the Minneapolis office monthly for any request that it has directed to them.
- e) When problems are encountered in verifying births in a particular state, the Immigration section of the responsible Canadian consulate should be telexed or telephoned. The Immigration section then contacts the Vital Statistics Department with the request and guarantees payment of any fee. The information received is then relayed to the Canadian office involved.



- f) When a request is channelled through a U.S. post, the Canadian office must provide its financial code so that the consulate can recover any expenses incurred.
- g) Where all other methods have failed, it may be necessary to contact the U.S. Immigration Attaché when a state refuses to release birth particulars because the person concerned will not give his consent for its release.

3) Cancellation of Requests for Vital Statistics to U.S. Immigration Service

When the U.S. Immigration Attaché or the U.S. Immigration Service has been requested to confirm or secure vital statistics for persons under removal order on our behalf, they will be informed as quickly as possible, e.g., by telephone, telegram, or through NHQ, immediately we obtain this information from another source.

14.65 REMOVAL VIA THE UNITED STATES TO OTHER COUNTRIES

1) Persons Under Removal Order in Transit Through the United States

United States Immigration Officers may permit without prior notice, except in the case of subversives, the transit through the U.S. of persons under removal order from Canada en route to third countries when such persons are accompanied by escort officers. In the case of persons in transit who would be classified as subversive by the United States Immigration Service, it is necessary to make advance arrangements and receive consent for their movement through the U.S. before presenting them at United States ports of entry.

2) Form U.S. 1-94

Upon arrival at the U.S. port of entry, the escorting Canadian officer will receive form U.S. 1-94 from the United States examining officer. The escort officer will have this form signed by the master of the vehicle by which the person's departure from the United States is effected. The signed I-94 will then be returned to the United States port of issue.

3) Receipt IMM 56

Confirmation of departure on IMM 56, will also be obtained by the removal officer from the official of the vessel concerned.

4) Removal by Air Via the United States

The United States Immigration authorities have agreed that if a person is removed from Canada on an aircraft that merely calls for servicing at a United States airport and then continues to its destination in a third country, the Commission is not required to provide escort through the U.S. In order that the United States Immigration may verify departure, the United States Immigration officer where the aircraft lands shall be advised by telex, in advance, of the date and time of expected arrival and departure.



5) Removal on Ships Calling at U.S. Ports

When a person is being removed from Canada to a third country on a ship which may be calling at a United States port before proceeding abroad, it will be unnecessary for a removal officer to escort him. If the port of call is known, the United States Immigration officer-in-charge or, otherwise, the Regional Director of that service must be informed. The master is responsible for safeguarding the person and informing the United States Immigration officer-in-charge that he has such a person on board. This does not affect the Canada/United States agreement whereby persons under removal order brought into either country in transit for embarkation on a ship are to be escorted by removal officers.

14.66 REMOVAL ARRANGEMENTS - BAGGAGE

As far as possible, persons under removal order should reduce their effects to the limits of free allowance imposed by transportation companies. This interferes in no way with arrangements persons may wish to make regarding shipment of belongings at their own expense.

14.67 ESCORTING PERSONS UNDER REMOVAL ORDER

1) Arrangements

a) District Administrators or Managers will make escort arrangements to the:

- United States border or, if circumstances indicate a need for special care, to the final destination for persons destined to that country;
- the port of departure in overseas cases; or
- the final destination overseas in cases requiring special care.

Where, in the case of a deportee requiring special care who is destined to the United States, the itinerary of the person concerned and the escort include one or more stops within the United States prior to reaching the final destination, the escort officer should remain with the deportee until withdrawal can reasonably be effected without leaving the deportee in a disadvantaged position. This will normally take place at the final destination. If ground assistance is required at any of the stopovers enroute, escort officers should seek assistance from airport authorities or from officials of the U.S. Immigration and Naturalization Service at the airports involved. Withdrawal of the escort at any point other than the final destination in special care cases may be considered only if appropriate arrangements have been made for the person's reception at an alternate location. (See also IE 14.37).



District Administrators or Managers must exercise discretion in deciding whether persons to be removed require an escort while en route to their final port of departure from Canada. Consider the following factors when making a final determination:

- i) Has the subject a serious criminal background or was a sentence being served?
 - ii) Is the subject a potential escapee or considered a danger to the public?
 - iii) Has the person been previously removed?
 - iv) Is there evidence of mental instability?
 - v) Is the person under any special medication?
- b) If it is determined that the subject does not require an escort to another port of departure, the connecting flight should be properly booked and confirmed, and should leave on the same day if possible. Notify the responsible airline(s) (see 14.53). Avoid detaining persons overnight where possible. Detention increases costs and workload at the receiving port. If there is more than a three-hour layover between connecting flights, or if it is necessary to detain a person overnight, documentation should include a signed form IMM 421 (see App. "O"). It may sometimes be advisable to consult with police or hospital authorities to determine the number of escort officers needed and to request police or medical assistance.

2) Advance Notification of Removal Arrangements to Ports of Departure

When a person being removed, either escorted or unescorted, will deplane at a port of departure in Canada, advise that port of the person's arrival, preferably by telex or alternatively by telephone, at least one day in advance. Since the receiving port has had no prior contact with the subject, all the useful information available will be required. International airlines often seek detailed information on such persons. Include the following information in the message:

- a) file number;
- b) description and sex of the person,
- c) if accompanied by a family, the names and ages of all members;
- d) arrival and departure information;
- e) details of any previous detention.



- f) mental attitude;
- g) reason for removal.

3) Instructions to Escort Officers

Escort officers should be provided with written instructions outlining the nature of the case, the action required and will be provided with relevant documents and the person's baggage and personal effects if these latter are in the hands of the Commission. The instructions will contain the following:

a) Case History

Give brief outline - citizenship, age, basis for removal, dependants accompanying - specifying whether they are being removed or repatriated

b) Flight Arrangements

Flight number and carrier, port of departure, departure time.

c) Escorting Instructions

Where movement entailed from place of residence to port of departure, give dates and hours of departure, cities, transfer points, stop-overs.

d) Documents Pertaining to Deportee

Specify passport and number, medical information, warrant for arrest. For the safekeeping of papers and documents, a Document Envelope, IMM 1226, must be used (see App. "P").

e) Tickets and Baggage

Escort and person concerned - give details.

f) Precautions and Remarks

Give information respecting attitude towards removal, behaviour in gaol (in criminal cases) and any other information disclosed on file that might be of assistance to the escorting officer.

g) Return to Duty

Give hour and date escort to report back.



4) Subsistence for Persons Under Removal Order

District Administrators or Managers will arrange to provide subsistence or the means whereby to purchase it, according to their discretion. Cash may only be furnished to persons under removal order under the "Reciprocal Arrangement" travelling without escort from the Canadian border to distant points in the United States. In such cases, a cash allowance of \$10. for each 24-hour period or portion thereof in excess of the original 24 hours is allocated. (See IE 14.37)

5) Baggage and Personal Finances

Removal officers will ensure that the person's baggage has been collected and accompanies him when removal is effected, checking the baggage through to the final destination whenever possible. Pay cheques belonging to the person will be picked up and cashed and all banking arrangements concluded. Exchange the money if possible.

6) Escort by Transportation Companies

Where transportation companies are responsible to ensure the departure of persons from Canada, they are required to make their own escorting arrangements for travel outside of Canada. Where such companies do not offer to escort persons concerned within Canada, escort officers of the Commission may perform such duties, but all their expenses are charged to the responsible transportation company. In no circumstances are immigration officers to escort such persons outside of Canada (except to U.S. ports of departure to third countries) to accommodate transportation companies.

7) Escort by Medical Officers

Medical officers employed by the Government of Canada may be allowed to act as escort officers only when removal is at public expense and medical attention is required en route.

8) Institutional Cases

When persons in institutions or hospitals are under removal order, it will be established over the signature of an appropriate official of the institution:

- a) that the person is fit to travel, and the type of travel accommodation that will be required;
- b) whether institutional care in the country of reception will be required;
- c) whether a nurse or special escort during the journey will be required;



9) Advance Notification to Missions Abroad

- a) In all cases involving the escort abroad by officers of the Commission or other persons acting on behalf of the Commission (e.g., psychiatric nurse, police officers, penitentiary officials), the Canadian mission in the country of destination and all countries where transit is necessary will be advised in advance of pertinent details in order to neutralize potential problems and to ensure that our representatives abroad are aware of escort officers who enter their sphere of responsibility. Particulars should be telexed with as much advance notice as possible so that the receiver will be able to act on the information, notify local authorities and reply if necessary. An information copy should be sent to the Director, Case Review, Operations Branch, NHQ and to the Consular Operations Division, External Affairs. In addition to biographical data relating to the person being removed, the reasons for the issuance of the removal order should be furnished. Transportation arrangements and escort particulars should be supplied. Any other useful and relevant information should also be given, for instance, reference must be made to the fact that an R.C.M.P. officer is acting as an escort if this is the case.
- b) Some of our missions require a specific number of days advance notice of impending removal arrangements pertaining to escorted persons, e.g., our High Commissions in Nigeria and Tanzania require not less than one week before scheduled arrival. Our High Commission in Nigeria has also advised that escort officers arriving in Nigeria should be in possession of visas. Failure to obtain a visa may cause difficulties with immigration authorities on arrival in Nigeria.
- c) Where a case has received considerable publicity in Canada, or is of a sensitive nature, it should be expected that the news media of other countries will also be aware of the case or that the countries concerned may wish to take special precautions upon the individual's arrival. Therefore, when arranging removal of such persons, the procedures outlined in 14.54 1) should be followed.

14.68 RESPONSIBILITIES OF REMOVAL AND ESCORT OFFICERS

1) Safekeeping of Documents and Effects and Physical Safety of Persons under Removal Order

Removal officers are responsible for the safe custody of persons under removal order and the safekeeping of documents and effects of persons under their charge. While on escort duty, they will exercise vigilance to ensure the physical safety of the persons whether threatened by their own acts or those of other persons. Where the services of more than one officer are required, the officer senior in years of service will assume responsibility for the escort. For the safekeeping of papers and documents, a Document Envelope, IMM 1226, must be used (see 14.67).



2) Precautions to Prevent Escape

Escort officers will exercise every care to prevent the escape of persons in their custody and will decide, according to the circumstances, whether handcuffs or other restraining equipment must be used. The following precautions will be taken:

- a) Persons under removal order shall not be handcuffed or chained to any immovable object while in transit;
- b) When transporting a person by automobile, ensure that he is seated on the right-hand side of the rear seat. The escort officer will sit directly behind the driver;
- c) Check the vehicle and surrounding area to ensure that there are no objects that could be used by the person as a weapon;
- d) Should the person cause a disturbance during escort, the officer should attempt to remove him from public view as quickly as possible;
- e) When using public transportation, the escort officer will arrange, if possible, to enter the vehicle ahead of the other passengers. He will ensure that he and the person being escorted are the last passengers to disembark. This will lessen the risk of disturbance and escape;
- f) Escort officers should not linger with the person in public places. If transportation is delayed, an attempt will be made to secure a room in the terminal away from the general public.

14.69 MEDICAL HISTORY FOR RECEIVING INSTITUTION OR PHYSICIAN

1) To be Provided by Releasing Institution or Physician

If the person under removal order is a mental case or under current treatment, the medical history of his disability, including the treatment used and suggestions for the assistance of those who may be responsible for subsequent treatment, will be requested from the appropriate official of the institution, or from the private practitioner concerned. Such medical history is to be placed in a sealed envelope addressed to the receiving institution or authority in the country of reception, and carried by the escort. If there is no escort, the medical history will be mailed direct, or in exceptional and suitable cases, carried by the person or accompanying person, depending upon the circumstances of the case.

2) Details to Transportation Company and Receiving Country

Full details and requirements for such institutional cases will be given by District Administrators or Managers to:



- a) the Consulate or government representative concerned when requesting a travel document or authority for a person's return. (For deportees destined to the United States, see IE 14.33 regarding notifications required under the Reciprocal Arrangement);
- b) the responsible transportation company when arranging for transportation.

3) Receipts to Institutions for Persons Under Removal Order

When accepting a person into custody from an institution or immigration station which requires a receipt, the removal officer will obtain (where separate receipts are obtained for the person and his effects) a complete list of valuables, money or baggage belonging to the person and see that this list appears on the receipt. A copy will be retained by the removal officer and placed on file on his return to duty.

4) Notice to Receiving Institution in the United States (see also IE 14.33 regarding notifications required under the Reciprocal Arrangement)

Officers making removal arrangements to the United States will provide advance notification of the date and hour of arrival to the receiving institution.

14.70 REPORTS ON PERSONS ESCAPING CUSTODY

1) Procedure if Person Escapes from Custody of an Immigration Officer

A removal officer or immigration officer will take the following action immediately in the event a person escapes from his custody:

- a) Notify the nearest municipal or provincial police and the RCMP;
- b) Notify the nearest immigration Manager, who will in turn notify by telex the Director, Immigration, of the region concerned, the port in charge of the case and the District Administrator concerned. Details of the identity of the person and place of escape will be provided in the telex;
- c) Obtain the assistance of other local immigration officers who may be able to assist and search the area thoroughly unless otherwise instructed;
- d) If escape occurs outside Canada, notify the local municipal or state police force, as well as the nearest Canada Immigration presence for advice on how best to handle the situation in the local context. In the United States, notify the nearest U.S. immigration officer. The Manager of the Canadian port responsible for the case will also be advised and will then notify the officials described in b) above;



- e) On return to his place of work, the officer concerned will submit a full written report to his Manager providing details of events leading up to the escape, the escape itself, and action taken following the escape;
- f) As soon as a complete investigation has been concluded, the Manager at the port of origin will submit a full report to his District Administrator. The report will also contain any observations or recommendations from the Manager which may assist in determining cause and/or preventing future escapes by proper remedial action. The District Administrator shall forward the report with any necessary comments and/or recommendations to the Director, Immigration and also ensure that necessary Gazetting and CPIC action has been taken if subject has not been located;
- g) When the escapee is again placed in custody, inform all authorities previously notified of the escape.

2) Procedures if a Person Escapes from Custody of Facilities of a Transportation Company

The local immigration Manager will take the following action immediately in the event a person escapes from the custody of facilities of a transportation company:

- a) Notify the nearest municipal or provincial police and the RCMP;
- b) Notify by telex the Director of Immigration of the region concerned and his District Administrator. Details of identity of the person, place of escape, name of transportation company responsible for escapee, and method of escape, will be provided by the telex;
- c) The Manager will obtain a written report in respect to the escape from the transportation company or member of the crew and conduct a full investigation into the cause of the escape and all precautions taken by the responsible transportation company. If there is negligence or failure on the part of the transportation company to provide proper security or facilities, recommendations should be made concerning penalty action or remedial action necessary to prevent future escapes. This report shall be sent to his District Administrator who will forward the report with any necessary comments or recommendations to the Director, Immigration. The District Administrator will also ensure CPIC and Gazetting action have been taken if escapee is not located immediately;
- d) If the transportation company is at fault, the Director, Immigration shall write to the company advising them of their responsibility under the Act and Regulations and the fact that they are liable to a penalty and that the company has 30 days in which to show cause why the penalty should not be imposed.



- e) The Director, Immigration will send to the Director General, Operations Branch, Immigration NHQ, a full report of the escape from the transportation company's care or custody and will provide comments concerning the cause of the escape, details of the escape itself and any remedial action which has been taken to prevent further escapes. Copies of all correspondence to the transportation company concerned shall accompany any submission;
- f) NHQ will reply to any representations from the transportation company and will inform them, in writing, of the amount of penalty when such is imposed and what action, if any, is required for additional deposit of security;
- g) When the escapee is again placed in custody, inform all authorities previously notified of the escape.

14.71 USE OF DOCUMENT ENVELOPE (IMM 1226)

- 1) An envelope (IMM 1226) has been specially designed for the safekeeping of papers, passports (or other travel documents), tickets, etc. for persons subject to removal proceedings. The envelope, referred to as "Document Envelope", is addressed to the Flight Attendant/Purser.
- 2) Officers responsible for removal arrangements will complete the face of the Document Envelope by recording the pertinent details regarding the removal particulars and contents.
- 3) The officers effecting the actual removal of the person concerned will turn over the envelope to the responsible person on the aircraft with verbal instructions regarding disposition of the contents, if different from the pre-printed notice on the face of the envelope.
- 4) For persons turned over to the United States Immigration Service, the envelope and contents will be given to the examining officer at the U.S. port of entry.
- 5) Documentation belonging to persons under removal order who are being escorted to their destination or on part of the journey will be carried by the escort officer.
- 6) A photograph may be affixed to the front of the envelope for ready identification of the person concerned.

14.72 ENQUIRIES FROM NATIONAL PAROLE BOARD

1) Referral to Field Office Concerned

An enquiry from the National Parole Board (NPB) concerning the status of a person, in custody, who may be the subject of removal proceedings, will be sent immediately to the CIC or District Administrator responsible for the area where the institution is located.



2) Action by Field Office

- a) The CIC or District Administrator will send a reply to the National Parole Board, as soon as possible, indicating the person's status in Canada and action taken or proposed.
- b) When the person concerned has been ordered deported and has entered an appeal or other legal proceedings, the CIC or District Administrator will advise the NPB, indicating at the same time that the local file has been notated so that, as soon as the litigation is decided, further information will be sent to the NPB.
- c) Copies of all correspondence to the NPB will also be sent to the Regional Parole representative at the address indicated in the original request from the NPB.

3) Granting of "Parole for Deportation" by NPB

When the NPB grants a "Parole for Deportation", a copy of the Certificate will be forwarded direct to the CIC or District Administrator concerned. Upon receipt of the Certificate, the office initiating removal arrangements will liaise with the institution regarding the proposed arrangements. If the Regional Parole representative wishes to obtain further information, he will contact the appropriate CIC.

14.73 RETURN OF SIN CARDS TO CEIC

- 1) Before voluntary departure is allowed or removal is effected, regular SIN cards should be seized (refer to 14.19) and forwarded to the CEIC Investigation & Control office at Regional Headquarters. The addresses of the Regional Investigation and Control offices are located in Appendix "A".
- 2) A covering memorandum should include:
 - a) the individual's name, date of birth, last address in Canada and SIN number;
 - b) how the card came into the possession of this Commission, i.e., seized or surrendered;
 - c) country to which the individual is proceeding and date of departure;
 - d) how the individual originally obtained the card, e.g., while in possession of an employment authorization, as a visitor, prior to arrival, etc.;
 - e) when applicable, an explanation regarding any variance in names or numbers (using someone else's card, applied more than once for a card etc.);



- f) other information that could be useful to the Commission in identifying persons who may try to use the system illegally, possibly by returning to Canada at a later date and re-applying for a SIN card.

14.74 PROCEDURES FOR THE CARRIAGE OF DEPORTEES UNDER ESCORT

- 1) The Notam at APP. "F" reflects agreements reached by representatives of the organizations concerned, including the CEIC. It should be noted that these procedures, including the completion of the Notice to Armed Individuals and Escort Officers Form referred to in paragraph 2.2, refer only to individuals who are to be escorted. The procedures impose no requirement to provide an assessment of the "risk of security" or even to give the carrier advance notification of the carriage of unescorted deportees.
- 2) The format and text of the Notice to Armed Individuals and Escort Officers Form was also agreed upon at these meetings. Each carrier is responsible for printing its own supply of the form. Regional officials may wish to liaise with local airline representatives if they have any questions concerning the use and completion of this document.

14.75 ON...SPARES



APPENDIX "A"
REGIONAL INVESTIGATION AND CONTROL OFFICES – ADDRESSES
(References at IE 14.73)

NEWFOUNDLAND

Employment and Immigration Canada
Investigation and Control
167 Kenmount Road
P.O. Box 12051
ST. JOHN'S, Newfoundland
A1B 3Z4

NOVA SCOTIA

Employment and Immigration Canada
Investigation and Control
99 Wise Road
P.O. Box 1350
HALIFAX, N.S.
B2J 3E4

PRINCE EDWARD ISLAND

Employment and Immigration Canada
Investigation and Control
85 Fitzroy Street
P.O. Box 8000
CHARLOTTETOWN, P.E.I.
C1A 8K1

NEW BRUNSWICK

Employment and Immigration Canada
Investigation and Control
615 Prospect Street W.
P.O. Box 2600
MONCTON, N.B.
E3B 5V6

QUEBEC

Employment and Immigration Canada
Investigation and Control
P.O. Box 7500, Station "A"
MONTREAL, Quebec
H3C 3L4

ONTARIO

Employment and Immigration Canada
Investigation and Control
494 Dundas Street East
BELLEVILLE, Ontario
K8N 5C1

MANITOBA

Employment and Immigration Canada
Manitoba Regional Office
259 Portage Avenue
Paris Building
WINNIPEG, Manitoba
R3C 3L4

SASKATCHEWAN

Employment and Immigration Canada
Investigation and Control
Financial Building, 8th floor
510-2101 Scarth Street
REGINA, Saskatchewan
S4P 2H9

ALBERTA AND NORTHWEST TERRITORIES

Employment and Immigration Canada
Investigation and Control
9700 Jasper Avenue, Canada Place
EDMONTON, Alberta
T5J 4C1

BRITISH COLUMBIA AND YUKON TERRITORY

Employment and Immigration Canada
Investigation and Control
Royal Centre, 9th floor
1055 West Georgia Street
P.O. Box 11145
VANCOUVER, B.C.
V6E 2P8



THE RECIPROCAL ARRANGEMENT

BETWEEN

**THE CANADA EMPLOYMENT AND
IMMIGRATION COMMISSION**

AND

**THE UNITED STATES IMMIGRATION
AND NATURALIZATION SERVICE,
DEPARTMENT OF JUSTICE**

**FOR THE EXCHANGE OF DEPORTEES
BETWEEN THE UNITED STATES
OF AMERICA AND CANADA**



I. REQUESTS AND NOTIFICATIONS:

To provide for the orderly and expeditious return of deportees under this Arrangement between the Immigration Services of Canada and the United States, the Service of the deporting country will transmit to the administrative head of the other Service, or a designated representative, the following:

- A. A notice of return or a request for consent to return the deportee as specified in Parts II and III of this Arrangement containing such identifying and biographical information as may be necessary to establish that the deportee is returnable under the terms of this Arrangement;
- B. Advance notice accompanied by a written opinion of a competent authority confirming the need for institutional care or treatment should the deporting Service possess evidence to suggest that any deportee requires such care or treatment because of a mental or physical condition. The deporting Service will, at the same time as notice is given or consent is sought, provide the receiving Service with advance written notice of the facts and circumstances of the case. The advance notice will be accompanied by a copy of the written opinion regarding institutional care or treatment. At the same time, or as soon as is administratively possible thereafter, the deporting Service will notify the receiving Service of the deportee's travel arrangements;
- C. In the case of a deportee who is of interest to law enforcement authorities in the receiving country, advance notice of the facts and circumstances of the case, including travel arrangements, to facilitate procedures at the port of entry;
- D. A written notice of the facts and circumstances of a denial of admission and parole or issuance of a minister's permit, whenever an individual is paroled or allowed, pursuant to a minister's permit, into the deporting country for legal proceedings or for humanitarian reasons or to permit the individual to apply for relief under the immigration laws of the deporting country. Such notice will be given immediately after denial of admission and parole or issuance of minister's permit to the immigration official in charge of the port of entry opposite the port of entry where parole was granted or where the minister's permit was issued.
- E. A written notice of the facts and circumstances relating to an alien authorized by the Immigration Appeal Board to return to Canada from the United States for the purpose of appearing before the Board for the hearing of the appeal from the removal order issued to that alien. Such notice will be made immediately upon the arrival of the individual in Canada, to the immigration official in charge of the opposite port of entry.



- 2 -

II. NOTICE OF RETURN OF CITIZENS, NATIONALS OR ALIENS:

1. Citizens or Nationals

Deportees who are citizens or nationals of Canada or the United States will be received by their country of citizenship or nationality under the terms of this Arrangement.

Before a citizen or national is returned to Canada or the United States, verbal notice will be given in those cases where:

- A. Citizenship or nationality in the receiving country can be satisfactorily established by presentation of a birth or baptismal certificate, a certificate of naturalization or citizenship, a valid or expired passport, or other verifiable evidence of citizenship or nationality; and
- B. The deportee does not require institutional care or treatment because of a mental or physical condition.

In the case of a citizen or national deportee who requires institutional care or treatment because of a mental or physical condition, written notice will be given to the receiving country.

2. Aliens

- A. Aliens of the receiving country, who proceeded directly from the receiving country to the deporting country and were paroled or allowed under the authority of a minister's permit into the deporting country, will be permitted to return to the receiving country under the terms of this Arrangement provided verbal notice is given to the receiving country within one year of revocation or expiration of such parole or minister's permit or from the date of a final order of deportation, whichever is the later.
- B. An alien, as described in Part III, paragraph 2., authorized by the Immigration Appeal Board to return to Canada from the United States for the purpose of appearing before the Board for the hearing of the appeal from the removal order issued to that alien will be permitted to return to the United States provided:
 - (i) the alien met the requirements of Part III paragraphs 2a. and b. at the time the removal order was made; and
 - (ii) verbal notice is given to the United States Immigration and Naturalization Service upon the alien's departure from Canada at the conclusion of the hearing.

.../3



- 3 -

III. CONSENT TO RETURN ALIENS:

Any of the classes of aliens hereinafter defined, even though such persons would be subject to deportation by the receiving country, will be permitted to return to Canada or the United States under the terms of this Arrangement provided:

1. The alien was admitted to the receiving country for permanent residence and:
 - a. The alien has not abandoned such residence by residing in a third country; and
 - b. The alien proceeded directly from the receiving country to the deporting country and was not admitted for permanent residence at that time; and
 - c. Formal request is made for consent to return the alien within one year from the date of a final order of deportation; and
 - d. The alien came into the deporting country on or subsequent to August 1, 1949; or
2. The alien was not admitted to the receiving country for permanent residence but:
 - a. The alien was denied admission at a port of entry and was ordered removed from the deporting country; and
 - b. The alien proceeded directly from the receiving country to the deporting country; and
 - c. Formal request for consent to return the alien is made within one year from the date of a final order of removal.

Before a deportee described in paragraphs 1 or 2 above is returned to Canada or the United States, a letter consenting to such return will first be obtained from the receiving Service.

A deportee described in paragraph 2 above will be permitted to return to the United States or Canada under the terms of this Arrangement, provided appropriate arrangements are made in the receiving country for a deportee who requires medical evaluation or institutional care or treatment. The receiving Service will undertake to arrange appropriate reception as expeditiously as possible.

.../4



- 4 -

IV. TRANSPORTATION AND SUBSISTENCE:

The deporting Service will furnish a deportee with transportation and subsistence to the port of entry of the receiving country closest to the port of exit of the deporting country. Where, however, a deportee does not have sufficient funds to travel to the deportee's last place of residence in the receiving country at the person's own expense, the deporting country will furnish transportation and subsistence to the last place of residence. In exceptional and meritorious cases, transportation and subsistence may be provided to such other place as is acceptable to the deporting Service, provided the receiving Service has no objection to the substitution.

Where a transportation company is liable to carry the deportee, the deportee will be carried to such place as is required by law.

V. VOLUNTARY DEPARTURE:

The return of persons granted voluntary departure as defined in Part X of this Arrangement is not governed by Parts II or III of this Arrangement. Whenever possible, however, such a person will be required to enter the receiving country at the port of entry which is nearest to the place of final destination in the receiving country.

VI. PORTS OF ENTRY:

Any deportee returned as provided for in Parts II and III of this Arrangement will be presented to any of the ports of entry listed hereunder for examination or inspection:

<u>CANADA</u>	<u>UNITED STATES</u>
Aldergrove, British Columbia	Alcan, Alaska
Armstrong, Quebec	Baltimore/Washington International Airport
Beaver Creek, Yukon Territory	Baltimore, Maryland
Blackpool, Quebec	Bangor, Maine
Calgary International Airport, Calgary, Alberta	Bar Harbour, Maine
Cornwall, Ontario	Blaine, Washington
Coutts, Alberta	Boston, Massachusetts

.../5



- 5 -

CANADA

Douglas, British Columbia
Edmonton International Airport,
Edmonton, Alberta
Edmundston, New Brunswick
Emerson, Manitoba
Fort Erie, Ontario
Fort Frances, Ontario
Fredericton Airport,
Fredericton, New Brunswick
Halifax International Airport,
Halifax, Nova Scotia
Hamilton Civic Airport
Hamilton, Ontario
Highwater, Quebec
Huntingdon, British Columbia
Kingsgate, British Columbia
Lansdowne, Ontario
London Airport, London,
Ontario
Mississauga, Ontario - Pearson
International Airport,
Terminals 1 and 2
Montreal International Airport,
Dorval, Quebec
Montreal International Airport,
Mirabel, Quebec

UNITED STATES

Buffalo, New York
Calais, Maine
Calgary International Airport
(Pre-Flight Inspection)
Champlain, New York
Cleveland Airport,
Cleveland, Ohio
Derby Line, Vermont
Detroit, Michigan
Eastport, Idaho
Edmonton International
Airport
(Pre-Flight Inspection)
Frontier, Washington
Highgate Springs, Vermont
Houlton, Maine
International Falls,
Minnesota
Ketchikan, Alaska
Lynden, Washington
Madawaska, Maine
Massena, New York
Minneapolis, Minnesota
Montreal International
Airport, Dorval, Quebec
(Pre-Flight Inspection)

.../6



CANADA

Niagara Falls, Ontario
North Portal, Saskatchewan
Osoyoos, British Columbia
Ottawa International Airport,
Ottawa, Ontario
Phillipsburg, Quebec
Prescott, Ontario
Prince Rupert, British Columbia
Quebec International Airport,
Quebec, Quebec
Regina Airport
Regina, Saskatchewan
Rock Island, Quebec
Saint John Municipal Airport,
Saint John, New Brunswick
St. Leonard, New Brunswick
St. Stephen, New Brunswick
Sarnia, Ontario
Saskatoon Airport,
Saskatoon, Saskatchewan
Sault Ste. Marie, Ontario
Stanhope, Quebec
Thunder Bay, Ontario
Vancouver International Airport,
Vancouver, British Columbia
Victoria, British Columbia
Windsor, Ontario

UNITED STATES

New York, New York
Niagara Falls, New York
North Troy, Vermont
Norton, Vermont
Noyes, Minnesota
Ogdensburg, New York
Oroville, Washington
Pittsburgh, Pennsylvania
Port Angeles, Washington
Port Huron, Michigan
Portal, North Dakota
Portland, Maine
Raymond, Montana
Sault Ste. Marie, Michigan
Seattle, Washington
Sumas, Washington
Sweetgrass, Montana
Thousand Island Bridge,
New York
Toronto, Ontario, Canada -
Pearson International
Airport, Mississauga,
Ontario
(Pre-Flight Inspection)
(Formerly Toronto
International Airport)
Van Buren, Maine

.../7



- 7 -

CANADA

Winnipeg International Airport,
Winnipeg, Manitoba

Woodstock, New Brunswick

Yarmouth, Nova Scotia

UNITED STATES

Vancouver International
Airport
(Pre-Flight Inspection)

Washington, District of
Columbia
(Dulles International Airport)

Winnipeg International
Airport
(Pre-Flight Inspection)

VII. OFFICIAL RECORDS AND PRIVACY CONSIDERATION

- A. The United States Immigration and Naturalization Service may use the information supplied by the Immigration Service of Canada for the purpose of ascertaining whether the deportee is wanted by U.S. law enforcement authorities; it may further provide to such authorities information supplied by the Immigration Service of Canada pursuant to this Arrangement for the said purpose and to facilitate the apprehension of the deportee by proper law enforcement authorities.
- B. The United States Immigration and Naturalization Service will not use or disclose information supplied by the Immigration Service of Canada for a purpose or to an authority other than specified in this Arrangement without the written consent of the Immigration Service of Canada.

VIII. CONSULTATION AND AMENDMENT PROVISIONS:

The Parties agree to discuss matters which are the subject of this Arrangement and to make any amendments considered appropriate. Any disputes or issues of interpretation will be resolved by mutual agreement of the Parties.

IX. TERMINATION PROVISION:

This Arrangement remains in full force and effect unless terminated in writing. This Arrangement may be terminated by either Party by giving written notice to the other Party at least one year prior to such termination.

.../8



X. DEFINITIONS:

The following terms are defined for the purposes of this Arrangement only, and like terms have a like meaning:

	<u>CANADA</u>	<u>UNITED STATES</u>
ADMISSION	Lawful permission to come into Canada as a visitor or to establish permanent residence.	Lawful permission for an alien to enter the United States.
ALIEN	Any person who is not a Canadian citizen.	Any person who is not a citizen or national of the United States.
DEPORTEE	Any of the persons described in Parts II and III of this Arrangement.	Any of the persons described in Parts II and III of this Arrangement.
ENTRY	Lawful permission to come into Canada as a visitor. Visitor means a person who is lawfully in Canada, or seeks to come into Canada for a temporary purpose, other than a Canadian citizen, a permanent resident, a person in possession of a minister's permit, or an immigrant authorized to come into Canada pursuant to paragraph 14(2)(b), 23(1)(b), or 32(3)(b) of the Immigration Act, 1976, as amended.	Any coming of an alien into the United States, from a foreign port or place or from an outlying possession, whether voluntarily or otherwise, except that an alien having a lawful permanent residence in the United States shall not be regarded as making an entry into the United States for the purposes of the immigration laws if the alien proves to the satisfaction of the Attorney General that departure to a foreign port or place or to an outlying possession was not voluntary: Provided, that no person whose departure from the United States was occasioned by deportation proceedings, extradition, or other legal process shall be held to be entitled to such exception.
EXCLUSION	A formal determination of inadmissibility.	A formal determination of inadmissibility.



CANADA

FINAL ORDER OF REMOVAL	A signed exclusion order or deportation order not stayed pursuant to the Immigration Act, 1976, as amended.
LEGAL PROCEEDINGS	All proceedings authorized or sanctioned by law and brought or instituted in a court of record or administrative tribunal for the recognition of a right or an enforcement of a remedy.
MINISTER'S PERMIT/ PAROLE	A valid and subsisting written permit, issued at the discretion of the Minister of Employment and Immigration or a delegate, authorizing an inadmissible person to come into and remain in Canada.
PERMANENT RESIDENT/ PERMANENT RESIDENCE	A person lawfully admitted for permanent residence, who has not become a Canadian citizen and has not ceased to be a permanent resident.
REMOVAL ORDER	An exclusion order or a deportation order.
VOLUNTARY DEPARTURE	Permission to depart Canada voluntarily granted to a person: a. Against whom a removal order has been made; or b. Who has been issued a departure notice; or c. Who has become the subject of a direction for inquiry or has been arrested for inquiry.

UNITED STATES

A signed exclusion order or deportation order ready for execution and unimpeded by legal challenge.
All proceedings authorized or sanctioned by law and brought or instituted in a court of record or administrative tribunal for the recognition of a right or an enforcement of a remedy.
An exercise of discretionary authority of the Attorney General to permit an inadmissible alien to come into the United States for emergent reasons, or for reasons deemed strictly in the public interest.
The status of having been lawfully accorded the privilege of residing permanently in the United States as an immigrant in accordance with the immigration laws, such status not having changed.
An exclusion order or a deportation order.
Authorization for a person to depart the United States prior to the commencement of deportation proceedings or subsequent to a deportation hearing.



XI. EFFECTIVE DATE:


This Arrangement will be effective on its signature by authorized representatives of the Parties. The present Arrangement will supersede the Arrangement for the Exchange of Deportees between Canada and the United States, of August 1, 1949.



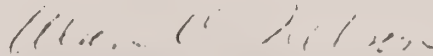
DONE in duplicate this 24th day of July A.D., 1987 at Williamsburg,
Virginia, United States of America, in English and in French, each language
version being equally authentic.

FOR THE CANADA EMPLOYMENT AND
IMMIGRATION COMMISSION

FOR THE UNITED STATES IMMIGRATION
AND NATURALIZATION
SERVICE,
DEPARTMENT OF JUSTICE



James B. Bissett,
Executive Director,
Immigration



Alan C. Nelson
Commissioner



Date :

Date :

To: Port Director,
United States Immigration and
Naturalization Service

A : Directeur du point d'entrée
Service d'immigration et de
naturalisation des États-Unis

From: Manager
Canada Immigration Centre

De : Directeur
Centre d'immigration du Canada

Notice of issuance of Minister's permit (reference Part I.D. of the Reciprocal Arrangement for the Exchange of Deportees between Canada and the United States) in the matter of

La présente a pour objet de vous aviser de la délivrance d'un permis du Ministre (consulter la partie I.D. de l'Arrangement de réciprocité concernant l'échange de personnes expulsées entre le Canada et les États-Unis) en ce qui concerne

Name
Date of Birth
Citizenship
Minister's permit No
Date Issued
Issued By

Nom
Date de naissance
Citoyenneté
N° du permis du Ministre
Date de délivrance
Délivré par

IMM 1443 (06-87)

Canada



STATUS OF PERSONS LIVING IN UNITED STATES TERRITORIES
AND PROTECTORATES

1) U.S. CITIZENS (non-voting)

Guam
Northern Mariana Islands
Puerto Rico
Virgin Islands

2) U.S. NATIONALS

+ American Samoa
Palau

3) NON-U.S. CITIZENS/NON-U.S. NATIONALS

- Marshall Islands
Micronesia



STATE VITAL STATISTICS OFFICES

Telephone

ALABAMA	Director, Bureau of Vital Statistics State Department of Public Health State Office Building MONTGOMERY, Alabama 36130	(205) 832-3960 -3100
* ALASKA	State Registrar of Vital Statistics Department of Health & Social Services Pouch H-02G JUNEAU, Alaska 99811	(907) 465-3392
ARIZONA	Manager, Vital Records Section & Assistant State Registrar Arizona Department of Health Services P.O. Box 3887 PHOENIX, Arizona 85030	(602) 255-1084
ARKANSAS	Director, Vital Records Arkansas Department of Health 4815 West Markham Street LITTLE ROCK, Arkansas 72201	(501) 661-2371
CALIFORNIA	Chief, Vital Statistics Branch Department of Health Services 410 "N" Street SACRAMENTO, California 95814	(916) 445-1719
	SAN DIEGO, California	(714) 236-2297 -2670
COLORADO	State Registrar & Acting Director Division of Health Statistics & Vital Records Colorado Department of Health 4210 East 11th Avenue DENVER, Colorado 80220	(303) 320-5326
CONNECTICUT	Registrar, Vital Records State Department of Health 79 Elm Street HARTFORD, Connecticut 06115	(203) 566-3149



Telephone

DELAWARE	Chief, Vital Statistics Division of Public Health Jesse S. Cooper Memorial Bldg. DOVER, Delaware 19901	(302) 736-4721
DISTRICT OF COLUMBIA	Chief, Vital Records Branch Research & Statistics Division 615 Pennsylvania Avenue, N.W. WASHINGTON, D.C. 20004	(202) 727-5319
FLORIDA	State Registrar and Director Office of Vital Statistics P.O. Box 210 JACKSONVILLE, Florida 32231	(904) 354-3961 ext. 3202
	WEST PALM BEACH, Fl.	(305) 837-3055
GEORGIA	Director, Vital Records Service Department of Human Resources 47 Trinity Avenue, S.W., Room 217H ATLANTA, Georgia 30334	(404) 656-4750
	Worth County, SYLVESTER, Ga.	(912) 776-3371
HAWAII	State Registrar & Assistant Chief Research and Statistics Office Hawaii Department of Health P.O. Box 3378 HONOLULU, Hawaii 96801	(808) 548-5820
IDAHO	State Registrar and Chief Bureau of Vital Statistics, Standards and Local Health Services Department of Health and Welfare Statehouse BOISE, Idaho 33720	(208) 334-5084
ILLINOIS	Deputy State Registrar Illinois Department of Public Health 535 West Jefferson Street SPRINGFIELD, Illinois 62761	(217) 782-6553



		<u>Telephone</u>
INDIANA	State Registrar of Vital Records State Board of Health 1330 W. Michigan Street, P.O. Box 1964 INDIANAPOLIS, Indiana 46206	(317) 633-0375
IOWA	Director, Vital Records Iowa Department of Health Robert Lucas Building DES MOINES, Iowa 50319	(515) 281-6581
KANSAS	Director, Bureau of Registration and Health Statistics State Department of Health and Environment TOPEKA, Kansas 66620	(913) 862-9360 Ext. 559
KENTUCKY	Registrar of Vital Statistics Department of Human Resources 275 East Main Street FRANKFORT, Kentucky 40601	(502) 564-4212
LOUISIANA	State Registrar Vital Records Section Department of Health and Human Resources, P.O. Box 60630 NEW ORLEANS, Louisiana 70160	(504) 568-5175
MAINE	State Vital Statistics Registrar Bureau Health Planning/Development Department of Human Services State House, Mail Station #11 AUGUSTA, Maine 04333	(207) 289-3181
MARYLAND	Administrator Division of Vital Records Department of Health and Mental Hygiene 201 West Preston Street BALTIMORE, Maryland 21201	(301) 383-2840



Telephone

MASSACHUSETTS	Acting Registrar Registry of Vital Records and Health Statistics Division of Health Statistics/Research 150 Tremont Street BOSTON, Massachusetts 02111	(617) 727-0110
MICHIGAN	State Registrar Michigan Department of Health P.O. Box 30035 LANSING, Michigan 48914	(517) 373-6604
	DETROIT, Michigan	(313) 876-4135
	Macomb County	(313) 469-5205
MINNESOTA	State Registrar State Department of Health 717 Delaware Street, S.E. MINNEAPOLIS, Minnesota 55440	(612) 623-5121
MISSISSIPPI	State Registrar and Director Public Health Statistics State Board of Health P.O. Box 1700 JACKSON, Mississippi 39205	(601) 354-6786
MISSOURI	Director, Bureau of Vital Records Missouri Division of Health P.O. Box 570 JEFFERSON CITY, Missouri 65102	(314) 751-3371
MONTANA	Chief, Bureau of Records and Statistics State Department of Health and Environmental Sciences HELENA, Montana 59620	(406) 449-2614
NEBRASKA	Director, Bureau of Vital Statistics State Department of Health P.O. Box 95007 LINCOLN, Nebraska 68509	(402) 471-2871



		<u>Telephone</u>
NEVADA	Administrator, Vital Statistics Division of Health Capitol Complex CARSON CITY, Nevada 89710	(702) 885-4480
NEW HAMPSHIRE	State Registrar and Chief Bureau of Vital Records and Health Statistics Hazen Drive, H & W Building CONCORD, New Hampshire 03301	(603) 271-4651
NEW JERSEY	Chief Vital Statistics and Registration Division of Administration Department of Health, CN 360 TRENTON, New Jersey 08625	(609) 292-4087
NEW MEXICO	State Registrar Health and Environment Department P.O. Box 968 SANTE FE, New Mexico 87503	(505) 827-2588
NEW YORK CITY	Director Bureau of Vital Records The City of New York Department of Health 125 Worth Street NEW YORK, New York 10013	(212) 566-8193
NEW YORK STATE	Director of Health Statistics New York State Department of Health Empire State Plaza, Tower Building ALBANY, New York 12237	(518) 474-8260
	BUFFALO, New York (Ms. Bookbinder)	(716) 855-4200
NORTH CAROLINA	State Registrar and Head Vital Records Branch Division of Health Services P.O. Box 2091 RALEIGH, North Carolina 27602	(919) 733-3000



Telephone

NORTH DAKOTA	Director Office of Statistical Services Registrar for Vital Statistics North Dakota State Department of Health State Capitol, Judicial Wing BISMARCK, North Dakota 58505	(701) 224-4508
OHIO	Chief, Division of Vital Statistics Ohio Department of Health 65 South Front Street, Room G-20 COLUMBUS, Ohio 43215	(614) 466-2533
OKLAHOMA	Deputy Commissioner for Administration State Registrar of Vital Statistics State Department of Health 1000 Northeast 10th Street P.O. Box 53551 OKLAHOMA CITY, Oklahoma 73152	(405) 271-5615
OREGON	State Registrar State Health Division P.O. Box 231 PORTLAND, Oregon 97207	(503) 229-6558
PENNSYLVANIA	State Registrar and Director Division of Vital Records P.O. Box 1528, Central Building 101 S. Mercer Street NEW CASTLE, Pennsylvania 16103	(412) 656-3100
RHODE ISLAND	Acting Chief Division of Vital Statistics Rhode Island Department of Health 101 Cannon Building 75 Davis Street PROVIDENCE, Rhode Island 02908	(401) 277-2811
SOUTH CAROLINA	Director Office of Vital Records and Public Health Statistics 2600 Bull Street COLUMBIA, South Carolina 29201	(803) 758-5504



		<u>Telephone</u>
SOUTH DAKOTA	Health Services Administrator Vital Records Program State Department of Health Joe Foss Building PIERRE, South Dakota 57501	(605) 773-3355
TENNESSEE	State Registrar and Director of Vital Records Tennessee Department of Public Health Room C3-323, Cordell Hull Building NASHVILLE, Tennessee 37219	(615) 741-1763
TEXAS	State Registrar Texas Department of Health 1100 West 49th Street AUSTIN, Texas 78756	(512) 458-7692 -7505
UTAH	Director Bureau Health Statistics Utah Department of Health P.O. Box 2500 SALT LAKE CITY, Utah 84110	(801) 533-6186
VERMONT	Director Public Health Statistics Vermont Department of Health 115 Colchester Avenue, P.O. Box 70 BURLINGTON, Vermont 05402	(802) 862-5701 Ext. 381
VIRGINIA	State Registrar and Chief Registration Services Division of Vital Records and Health Statistics, P.O. Box 1000 RICHMOND, Virginia 23208	(804) 786-6221
* WASHINGTON	Mrs. Marjorie Kegley Vital Records P.O. Box 9709, ET-11, Vital Records OLYMPIA, Washington 98504	(206) 586-0421



Telephone

VIRGIN ISLANDS

Director
Research and Statistical Services
Virgin Islands Department of Health
Charlotte Amalie
ST. THOMAS, Virgin Islands 00801

(809) 774-1734

Department Registrar
ST. CROIX, Virgin Islands

(809) 773-4050



NOTAM

Page 1 of 4

RECOMMENDED PROCEDURES FOR THE
CARRIAGE OF FIREARMS AND PASSENGERS
UNDER ESCORT ABOARD CANADIAN REGISTERED AIRCRAFT

- A. RECOMMENDED PROCEDURES FOR THE CARRIAGE OF FIREARMS ABOARD CANADIAN REGISTERED AIRCRAFT
1. Procedures for Law Enforcement Authorities
- 1.1 Each law enforcement authority should establish procedures to ensure the following:
- (a) The carriage of firearms aboard aircraft by a peace officer under its jurisdiction is limited to those situations which require that officer to be armed in flight to ensure the safe completion of his mission.
 - (b) Each peace officer it authorizes to carry a firearm aboard an aircraft is fully aware of:
 - (i) the procedures adopted by the air carrier, whose services he will be using, governing the carriage of firearms aboard aircraft.
 - (ii) the potential danger to the safe operation of the aircraft should officers take any action during a hijacking without direction of the pilot-in-command.
2. Procedures for Armed Peace Officers
- 2.1 A peace officer authorized to carry a firearm aboard a particular flight shall:
- (a) Notify a responsible air carrier employee, preferably a supervisor at the airport, at least one hour before flight time or in an emergency as soon as practicable prior to scheduled departure of the flight. The notification may be made in person or by telephone.
 - (b) Present official identification to a responsible air carrier employee, preferably a supervisor at the airport by displaying credentials that include a clear, full-face picture and the individual's signature. A badge, shield or similar device may not be used as a sole means of identification.
 - (c) Complete the Notice to Armed Individuals and Escort Officers Form used by the air carrier to notify the pilot-in-command of the presence on board the aircraft of an armed peace officer and any passenger under escort.
 - (d) When in civilian attire, carry the firearm unloaded and securely concealed on the person or otherwise.
 - (e) When in uniform, carry the firearm unloaded on the individual's person in a holster designed for the carriage of the firearm.
 - (f) Not consume any alcoholic beverage when having access to a firearm.



IE 14
APP. "F"

3. Procedures for Air Carriers

3.1 The air carrier shall establish procedures to ensure that:

- (a) Prior to boarding, the armed individual is made aware of its procedures for carrying firearms aboard its aircraft. This information shall be provided on the printed Notice to Armed Individuals and Escort Officers Form.
- (b) The identity of the armed peace officer is known to the pilot-in-command and other peace officers aboard unless confidentiality is requested by an undercover officer in which event the latter will be advised of the presence of the other armed peace officers without the individual's presence or identity being disclosed to anyone.
- (c) No alcoholic beverage is served to a peace officer having access to a firearm.
- (d) An incident of non-compliance by an armed peace officer is reported in writing to the appropriate authority concerned.

B. RECOMMENDED PROCEDURES FOR THE CARRIAGE OF PASSENGERS UNDER ESCORT ABOARD CANADIAN REGISTERED AIRCRAFT

1. Introduction

1.1 Definitions:

Escorting Officer means the person having custody or control of another passenger when travelling aboard aircraft.

1.2 Policy:

The air carrier reserves the sole right to refuse or accept passage of passenger(s) under escort. The air carrier will accept passenger(s) under escort, providing no unusual risk or inconvenience to other passengers will be involved and further that the following conditions are met

2. Conditions for Carriage of Passenger(s) Under Escort BEFORE Boarding Aircraft

- 2.1 Prior to presenting a passenger(s) under escort for carriage aboard an aircraft, the Escorting Officer(s) or Agency will notify a responsible representative of the air carrier, i.e., the Supervisor in charge of the passenger counter, or the Supervisor in charge of passenger service in the case of larger stations, or the Station Manager, or acting Station Manager in case of smaller stations of the following:
 - (a) The identity of the passenger under escort to be carried.
 - (b) The flight on which it is proposed to carry the escorted passenger.
 - (c) The reasons for escort.
- 2.2 A completed Notice to Armed Individuals and Escort Officers Form must be presented to a responsible air carrier employee, preferably a Supervisor at the airport, at least one hour prior to flight departure and include an assessment of the passenger(s) under escort as to the risk of security.
- 2.3 If interline transportation is involved, concurrence must be obtained in advance from the other air carriers.



- 2.4 A passenger under escort having a maximum security rating requires a minimum of two escorts. Only one maximum security rated passenger under escort is to be carried per flight. Passengers under escort having a medium security rating may be carried with one escort for each passenger under escort. Passengers under escort having a minimum security rating may be carried with one escort for every two passengers with escort (or more with prior agreement with the air carrier).
- 2.5 Air carriers will reserve the right to limit the maximum number of passengers under escort having medium or minimum security rating to be carried on any flight considering the size of the aircraft and the level of danger involved.
- 2.6 The Escorting Officer ensures the passenger under escort has been searched and does not carry contraband, weapons, matches, or other potentially dangerous items aboard an air carrier aircraft.
- 2.7 The Escorting Officer will not carry mace, tear gas, or similar incapacitating gas-generating devices aboard the aircraft.
- 2.8 The Escorting Officer will be equipped with adequate restraining devices to be used in the event the passenger under escort becomes unruly.
- 2.9 The Escorting Officer has been apprised by his/her superiors that he is to institute no action in the event of a hijacking or other illegal act, unless requested to do so by the pilot-in-command or his designate.
- 2.10 The Escorting Officer escorting a passenger under escort boards in advance of other passengers as "preboard", whenever possible.
- 2.11 The Escorting Officer will keep in his possession all documentation pertaining to the passenger under escort.
- 2.12 The Escorting Officer makes a search for potential weapons in the seating area allocated for the passenger under escort.
3. Conditions for Carriage of Passenger(s) Under Escort AFTER Boarding Aircraft
- 3.1 Seating priorities for the Escorting Officer and passenger under escort are to be as follows:
 - (a) Whenever possible, the passenger under escort and the escorting officer will be assigned to the rear seats of the aircraft.
 - (b) The passenger under escort shall not be seated adjacent to any normal or emergency exit.
 - (c) Depending on the seating arrangements, the passenger under escort will be assigned a window seat and the Escorting Officer next to him.
 - (d) Whenever possible, at least one Escorting Officer will be seated between the passenger under escort and the aisle unless aircraft seating configuration prevents this arrangement.



IE 14
APP. "F"

3.2 The Escorting Officer:

- (a) Will not normally shackle a passenger under escort to any part of the aircraft, including seats, tables, etc.
- (b) Will not permit the passenger under escort to leave his seat without being escorted by the Escorting Officer.
- (c) Will decide what utensils will be supplied with the meal served to the passenger under escort.
- (d) Will not consume any intoxicating liquor nor allow any to be served to the passenger under escort.

4. Procedures

Deplaning of passenger under escort: Whenever possible, the Escorting Officer(s) and the passenger under escort will deplane after the terminating passengers have left the aircraft.


Harry D. Blair,
Assistant Administrator, Air Navigation



Employment and Immigration Canada

Emploi et Immigration Canada

**REJECTION ORDER UNDER SECTION 13
OF THE IMMIGRATION ACT.**

**MESURE DE REFOULEMENT AUX TERMES DE
L'ARTICLE 13 DE LA LOI SUR L'IMMIGRATION**

FILE NO. N° DE RÉFÉRENCE

TO
POUR

SURNAME OF PERSON CONCERNED - NOM DE LA PERSONNE CONCERNÉE

FIRST NAME & INITIALS - PREMIER PRÉNOM ET INITIALES

ADDRESS - ADRESSE

DATE OF EXAMINATION - DATE DE L'EXAMEN

PORT OF ENTRY - POINT D'ENTRÉE

PROVINCE

YOU ARE HEREBY REJECTED UNDER SECTION 13 OF THE IMMIGRATION ACT. THE TEXT OF SECTION 13 APPEARS
ON THE REVERSE OF THIS FORM.

UNE MESURE DE REFOULEMENT EST PAR LES PRÉSENTES RENVOIÉ CONTRE VOUS AUX TERMES DE L'ARTICLE 13
DE LA LOI SUR L'IMMIGRATION. LE TEXTE DE L'ARTICLE 13 FIGURE AU VERSO DU PRÉSENT FORMULAIRE.

SIGNATURE OF IMMIGRATION OFFICER - SIGNATURE DE L'AGENT D'IMMIGRATION

DATE

**Notice to Transportation Company Concerned
(Where applicable)**

UNDER THE TERMS OF SECTION 85 OF THE IMMIGRATION ACT, AS AMENDED, YOU ARE HEREBY
ORDERED TO CONVEY, OR CAUSE THE ABOVE NAMED PERSON TO BE CONVEYED, TO THE
PLACE FROM WHICH THAT PERSON CAME TO CANADA.

**AVIS AU TRANSPORTEUR CONCERNÉ
(S'il y a lieu)**

EN APPLICATION DE L'ARTICLE 85 DE LA LOI SUR L'IMMIGRATION, TEL QUE MODIFIÉE, VOUS
ÊTES PAR LES PRÉSENTES ENJOINT DE TRANSPORTER OU DE FAIRE TRANSPORTER LA
PERSONNE PRÉCITÉE À L'ENDROIT D'OU ELLE EST VENUE AU CANADA.

SIGNATURE OF IMMIGRATION OFFICER - SIGNATURE DE L'AGENT D'IMMIGRATION

DATE

NOTE: For a greater understanding of the obligations of transportation companies under the Immigration Act, write to Immigration HQ, Ottawa, Ontario
K1A 0J9 for a free set of transportation directives.

NOTA: Si vous désirez être mieux informé des obligations que doivent remplir les transporteurs aux termes de la Loi sur l'immigration, veuillez écrire à
l'Administration centrale d'Immigration Canada à Ottawa (Ontario) K1A 0J9, pour obtenir une série gratuite des directives concernant le transport.

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM 1217 EP - P (01-89) B

PERSON CONCERNED - PERSONNE CONCERNÉE 1

Canada

IE 14
APP. 'G'



Employment and
Immigration Canada

Emploi et
Immigration Canada

DIRECTION TO RETURN TO THE UNITED STATES
(UNDER SUBSECTION 20(2) OF THE IMMIGRATION ACT)

ORDONNANCE DE RETOURNER AUX ÉTATS-UNIS
(AUX TERMES DU PARAGRAPHE 20(2) DE LA LOI SUR
L'IMMIGRATION)

Surname — Nom de famille		Given Names — Prénom(s)		File No. — N° de référence	
Date of Birth Date de naissance	D-J / M / Y-A	Country of Birth — Pays de naissance		Country of Citizenship — Pays de citoyenneté	
Address in U.S.A. — Adresse aux États-Unis					

You have this day been examined in accordance with subsection 12(1) of the Immigration Act, (hereinafter called the Act). I am of the opinion that it is contrary to this Act and/or Immigration Regulations, 1978 to grant you admission to Canada or otherwise let you come into Canada.

Because a Senior Immigration Officer is not available to receive my report, under subsection 20(2) of the Act I direct that you return to the United States until a Senior Immigration Officer is available.

Senior Immigration Officer will be available at

Vous avez aujourd'hui été interrogé(e) conformément au paragraphe 12(1) de la Loi sur l'immigration (ci-après appelée la loi). J'estime que vous accorder l'admission ou la permission d'entrer au Canada contreviendrait à la Loi et/ou au Règlement sur l'immigration de 1978.

Comme aucun agent principal n'est disponible pour recevoir mon rapport, je vous ordonne, aux termes du paragraphe 20(2) de la Loi, de retourner aux États-Unis en attendant qu'un agent principal soit disponible.

Un agent principal sera disponible à

Location — Endroit		Date On Le		Time — Heure AT A	
at which time I will submit my report. If you desire to continue with your request for admission to Canada please return to		Je présenterai alors mon rapport. Si vous désirez toujours solliciter l'admission au Canada, veuillez vous présenter à			
Location — Endroit					
on the date and time mentioned above.		à la date et à l'heure indiquées ci-dessus.			
Signature of Immigration Officer — Signature de l'agent d'immigration		Date		Port of Entry — Point d'entrée	

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM. 1237 EP-P (8-88) B

Canada



Employment and Immigration Canada

Emploi et Immigration Canada

IMMIGRATION MANUAL

GUIDE DE L'IMMIGRATION

IE 14
APP. 'H'



Employment and Immigration Canada Emploi et Immigration Canada

IMMIGRATION MANUAL

GUIDE DE L'IMMIGRATION

IE 14
APP. 'I'

Employment and Immigration Canada Emploi et Immigration Canada

PROTECTED WHEN COMPLETED
PROTÉGÉ UNE FOIS REMPLI**DIRECTION TO RETURN TO THE UNITED STATES**
(UNDER SUBSECTION 23(5) OF THE IMMIGRATION ACT)**ORDONNANCE DE RETOURNER AUX ÉTATS-UNIS**
(AUX TERMES DU PARAGRAPHE 23(5) DE LA LOI SUR L'IMMIGRATION)

Surname – Nom de famille				Given Names – Prénom(s)				File No. – N° de référence	
Date of Birth Date de naissance		D-J	M	Y-A	Country of Birth – Pays de naissance		Country of Citizenship – Pays de citoyenneté		
Permanent or Temporary Address in the United States – Adresse permanente ou temporaire aux États-Unis									

Accompanying Dependents – Attach separate sheet, if necessary Personnes à charge accompagnant le revendicateur – Joindre une feuille distincte, s'il y a lieu				
Family Name Nom de famille	Given Names Prénom(s)	File No. N° de référence	Date, Place and Country of Birth Date, lieu et pays de naissance	M – F
				<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/> <input type="checkbox"/>
				<input type="checkbox"/> <input type="checkbox"/>

I have received a report under subsection 20(1) of the Immigration Act, (hereinafter called the Act) from an Immigration Officer. A copy of the report is attached.

J'ai reçu d'un agent d'immigration un rapport, dont vous trouverez un double ci-joint, établi en vertu du paragraphe 20(1) de la Loi sur l'immigration (ci-après appelée la Loi).

Being satisfied that the report is accurate, pursuant to paragraph 23(4)(a) of the Act, I hereby cause an inquiry to be held concerning you as soon as reasonably practicable.

Comme le rapport est exact, je fais par les présentes procéder à une enquête à votre sujet, conformément à l'alinéa 23(4) de la Loi, dès que les circonstances le permettent.

Because an Adjudicator is not available to preside at the inquiry, pursuant to subsection 23(5) of the Act, I direct that you return to the United States until an Adjudicator is available.

Comme aucun arbitre n'est disponible pour présider l'enquête, conformément au paragraphe 23(5) de la Loi, je vous ordonne de retourner aux États-Unis en attendant qu'il soit possible d'en trouver un disponible.

An Adjudicator will be available at

Un arbitre sera disponible à

Location – Endroit	On Le	Date	At A	Time – Heure
at which time the inquiry will commence. If you desire to continue with your request for admission to Canada please return to	date et heure où l'enquête débutera. Si vous désirez toujours solliciter l'admission au Canada, veuillez vous présenter de nouveau à			

Location – Endroit

on the date and time mentioned above. Attached is a Notice (689) which outlines your right to counsel of your choice at the inquiry or alternatively your obligation to accept a designated barrister or solicitor in certain circumstances.

à la date et à l'heure indiquées ci-dessus. Vous trouverez ci-joint un avis (IMM 689) qui vous explique votre droit d'être représenté(e) à l'enquête par un conseil de votre choix ou, autrement, votre obligation d'accepter, dans certaines circonstances, un avocat désigné.

Senior Immigration Officer – Agent principal	Date	Port of Entry – Point d'entrée
--	------	--------------------------------

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

IMM 1238 (06/90) B

Canada



DEPARTURE NOTICE

AVIS D'INTERDICTION DE SÉJOUR

HEADQUARTERS, USE ONLY - RESERVE À L'ADMINISTRATION CENTRALE		CASE SERIAL NO. - N° DE CAS INITIAL	
5 5		CLIENT ID - ID DU CLIENT	
SURNAME - NOM		OFFICE FILE NUMBER N° DE RÉFÉRENCE DU BUREAU	
GIVEN NAMES - PRÉNOMS			
DATE OF BIRTH DATE DE NAISSANCE		COUNTRY OF BIRTH - PAYS DE NAISSANCE	COUNTRY OF CITIZENSHIP - CITOYEN DE
D - J M Y - A			
1 9			
<p>ON THE BASIS OF THE EVIDENCE ADDUCED AT THE INQUIRY HELD UNDER THE PROVISION OF THE IMMIGRATION ACT, I HAVE DECIDED THAT YOU ARE A PERSON DESCRIBED IN</p> <p>VOUS ÊTES TENU(E) CONFORMÈMENT AU PARAGRAPHE DE CETTE LOI, DE QUITTER LE CANADA</p>			
<p>YOU ARE REQUIRED PURSUANT TO SUBSECTION OF THAT ACT, TO LEAVE CANADA</p> <p><input type="checkbox"/> ON OR BEFORE</p> <p><input type="checkbox"/> NO LATER THAN DAY(S)</p> <p>AFTER THIS DEPARTURE NOTICE BECOMES EFFECTIVE PURSUANT TO SUBSECTION 32.1(6) OF THAT ACT.</p>		<p><input type="checkbox"/> LE</p> <p><input type="checkbox"/> AU PLUS TARD JOUR(S)</p> <p>APRÈS QUE LE PRÉSENT AVIS D'INTERDICTION DE SÉJOUR SOIT DEVENU EXÉCUTOIRE AUX TERMES DU PARAGRAPHE 32.1(6) DE CETTE LOI.</p>	
<p>PURSUANT TO SUBSECTION 32.1(6) OF THE IMMIGRATION ACT, NO CONDITIONAL DEPARTURE NOTICE MADE AGAINST A CLAIMANT IS EFFECTIVE UNLESS AND UNTIL</p> <p>A) THE CLAIMANT WITHDRAWS THE CLAIM TO BE A CONVENTION REFUGEE B) THE CLAIMANT IS FINALLY DETERMINED UNDER THIS ACT TO HAVE ABANDONED THE CLAIM TO BE A CONVENTION REFUGEE C) THE CLAIMANT IS FINALLY DETERMINED UNDER THIS ACT NOT TO BE A CONVENTION REFUGEE, OR D) THE CLAIMANT IS DETERMINED AT AN INQUIRY REOPENED PURSUANT TO SUBSECTION 46.07(1) NOT TO HAVE A RIGHT UNDER SUBSECTION 4(2.1) TO REMAIN IN CANADA.</p>		<p>EN VERTU DU PARAGRAPHE 32.1(6) DE LA LOI SUR L'IMMIGRATION, UN AVIS D'INTERDICTION DE SÉJOUR CONDITIONNELLE NE DEVIENT EXÉCUTOIRE QUE SI SE RÉALISE L'UNE OU L'AUTRE DES CONDITIONS SUIVANTES:</p> <p>A) LE DEMANDEUR DE STATUT RENONCE À SA REVENDICATION DU STATUT DE RÉFUGIÉ AU SENS DE LA CONVENTION; B) LE DESISTEMENT DU DEMANDEUR DE STATUT A ÉTÉ, EN CETTE MATIÈRE, DÉFINITIVEMENT ÉTABLI; C) LE STATUT DE RÉFUGIÉ AU SENS DE LA CONVENTION A ÉTÉ DÉFINITIVEMENT REFUSÉ AU DEMANDEUR DE STATUT; D) IL A ÉTÉ DÉTERMINÉ, LORS D'UNE ENQUÊTE ROUVERTE AUX TERMES DU PARAGRAPHE 46.07(1), QUE LE DEMANDEUR DE STATUT N'AVAIT PAS, EN APPLICATION DU PARAGRAPHE 4(2.1), LE DROIT DE DEMEURER AU CANADA.</p>	
<p>SUBSECTION 32.1(1) DEFINES A CLAIMANT AS A PERSON WHO CLAIMS TO BE A CONVENTION REFUGEE AND WHOSE CLAIM HAS BEEN REFERRED TO THE REFUGEE DIVISION.</p> <p>SHOULD YOU FAIL TO LEAVE ON OR BEFORE THE ABOVE MENTIONED PERIOD OF TIME, A DEPORTATION ORDER MAY BE ISSUED AGAINST YOU.</p>		<p>LE PARAGRAPHE 32.1(1) DÉFINIT UN DEMANDEUR DE STATUT COMME ÉTANT UNE PERSONNE QUI REVENDIQUE LE STATUT DE RÉFUGIÉ AU SENS DE LA CONVENTION ET DONT LA REVENDICATION EST DÉFERÉE À LA SECTION DU STATUT.</p> <p>SI VOUS NE QUITTEZ PAS LE CANADA AVANT L'EXPIRATION DU DÉLAI PRÉSCRIT, UNE MESURE D'EXPULSION POURRA ÊTRE RENDUE CONTRE VOUS.</p>	
DATE		ADJUDICATOR ARBITRE	
I FULLY UNDERSTAND THE ABOVE DECISION AND UNDERTAKE TO LEAVE CANADA ON OR BEFORE THE ABOVE MENTIONED PERIOD OF TIME.		JE COMPRENDS PARFAITEMENT LA DÉCISION INDIQUÉE CI-DESSUS ET M'ENGAGE À QUITTER LE CANADA DANS LE DÉLAI PRÉSCRIT.	
NAME NOM		DATE	
SIGNATURE		DATE	
I HAVE FAITHFULLY AND ACCURATELY INTERPRETED IN THE		J'AI INTERPRÉTÉ FIDÈLEMENT ET EXACTEMENT EN	
LANGUAGE THE INFORMATION PROVIDED ABOVE		LES RENSEIGNEMENTS PRÉCITÉS	
NAME NOM		DATE	
SIGNATURE		DATE	
DATE SIGNED SIGNÉ LE		OFFICE OF ISSUE - BUREAU DE DÉLIVRANCE	
D - J M Y - A			
1 9			
IMM 1220 EP-P (01-90) B			
THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION LE PRÉSENT DOCUMENT EST LA PROPRIÉTÉ DU GOUVERNEMENT DU CANADA			
Canada		ADJUDICATOR ARBITRE	
1			
PURSUANT TO SUBSECTION 32.1(6) OF THE IMMIGRATION ACT, THIS CONDITIONAL DEPARTURE NOTICE IS NOW EFFECTIVE. SUBJECT IS REQUIRED TO LEAVE CANADA ON OR BEFORE		EN VERTU DU PARAGRAPHE 32.1(6) DE LA LOI SUR L'IMMIGRATION, LE PRÉSENT AVIS D'INTERDICTION DE SÉJOUR CONDITIONNELLE EST MAINTENANT EXÉCUTOIRE. LA PERSONNE EN CAUSE EST TENUE DE QUITTER LE CANADA LE	
DATE		OU AVANT CETTE DATE	
AT		OFFICER SIGNATURE - SIGNATURE	
A			

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION
LE PRÉSENT DOCUMENT EST LA PROPRIÉTÉ DU GOUVERNEMENT DU CANADA

Canada



Employment and Immigration Canada Emploi et Immigration Canada
CONFIRMATION OF DEPARTURE — CONFIRMATION DU DÉPART

IE 14 APP. "K"
V 070 430 032

HEADQUARTERS' USE ONLY — RÉSERVÉ À L'ADMINISTRATION CENTRALE		CASE SERIAL NO. — N° DE CAS INITIAL
5	6	CLIENT ID. — ID DU CLIENT
		OFFICE FILE NO. — N° DE RÉFÉRENCE DU BUREAU

NOTE: TO BE COMPLETED FOR EACH PERSON DIRECTED TO LEAVE CANADA UNDER REMOVAL ORDER OR DEPARTURE NOTICE.
À REMPLIR POUR CHAQUE PERSONNE ENJOINTÉ DE QUITTER LE CANADA EN VERTU D'UNE MESURE DE RENVOI OU D'UN AVIS D'INTERDICTION DE SÉJOUR.

A - PARTICULARS OF PERSON CONCERNED — RENSEIGNEMENTS SUR LA PERSONNE CONCERNÉE

SURNAME — NOM		
GIVEN NAMES — PRÉNOMS		
DATE OF BIRTH DATE DE NAISSANCE	D-J M Y-A	
TYPE OF TRAVEL DOCUMENT GENRE DE DOCUMENT DE VOYAGE		NUMBER — NUMÉRO
PLACE, COUNTRY, DATE OF ISSUE — LIEU, PAYS ET DATE DE DÉLIVRANCE		

B - COMPLETE FOR REMOVAL UNDER ESCORT ONLY — NE REMPLIR QU'EN CAS DE RENVOI SOUS ESCORTE

BAGGAGE — BAGAGE	CHECK NO. — N° DE CONSIGNE	EFFECTS — EFFETS
CASH — ARGENT LIQUIDE	TRANSPORTATION TICKET NO. — BILLET DE TRANSPORT N°	

C - RECEIPT FOR DELIVERY (COMPLETE FOR REMOVAL UNDER ESCORT ONLY) - REÇU DE LIVRAISON (NE REMPLIR QU'EN CAS DE RENVOI SOUS ESCORTE)

THE ABOVE NAMED PERSON AND ITEMS WERE DELIVERED TO ME BY — LA PERSONNE PRÉCITÉE ET LES ARTICLES SUSMENTIONNÉS M'ONT ÉTÉ CONFÉES PAR		
CANADIAN IMMIGRATION OFFICER — AGENT D'IMMIGRATION CANADA		AT — À
DATE	RECEIVER'S SIGNATURE — SIGNATURE	OFFICIAL TITLE — TITRE OFFICIEL

D - OTHER INFORMATION — AUTRES RENSEIGNEMENTS

CAUSE FOR REMOVAL — MOTIF DU RENVOI	DETAINED FOR REMOVAL DÉTENU POUR RENVOI	LIABILITY — RESPONSABILITÉ
TYPE OF ORDER / NOTICE — GENRE DE MESURE / AVIS		REMOVAL UNDER ESCORT — RENVOI SOUS ESCORTE
1 DEPORTATION ORDER MESURE D'EXPULSION 2 EXCLUSION ORDER MESURE D'EXCLUSION 3 DEPARTURE NOTICE AVIS D'INTERDICTION DE SÉJOUR		1 YES OUI 2 NO NON
REMARKS: INCLUDE NAMES OF FAMILY MEMBERS ACCOMPANYING UNDER A 33(1) OBSERVATIONS: INCLURE LE NOM DES MEMBRES DE LA FAMILLE QUI L'ACCOMPAGNENT EN VERTU DE L. 33(1)		

DATE SIGNED SIGNÉ LE	D-J M Y-A	OFFICE OF ISSUE — BUREAU DE DÉLIVRANCE	SIGNATURE
-------------------------	-----------	--	-----------

E - VERIFICATION OF DEPARTURE (Complete for all Persons directed to leave Canada) — VÉRIFICATION DU DÉPART (À remplir pour toutes les personnes enjoindées de quitter le Canada)

THE ABOVE NAMED PERSON DEPARTED FROM — LA PERSONNE SUSMENTIONNÉE A QUITTÉ		TO FINAL DESTINATION COUNTRY — AU LIEU DE DESTINATION FINALE (PAYS)	
CARRIER — TRANSPORTEUR	TIME — HEURE	SIGNATURE OF IMMIGRATION OFFICER SIGNATURE DE L'AGENT D'IMMIGRATION	
DATE OF DEPARTURE DATE DU DÉPART	D-J M Y-A	CRU INVOLVED — SCR IMPLIQUÉE	
BOND DISPOSITION DÉCISION QUANT AU CAUTIONNEMENT	1 FORFEITED CONFISQUÉ 2 REFUNDED REMBOURSÉ	BACKLOG LEG DISP. LEG. ARRIÈRE	ERRORS ERREURS
		UTILITIES LIBRES	

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

PROTECTED WHEN COMPLETED
PROTÉGÉ UNE FOIS REMPLI





Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



Employment and Immigration Canada Emploi et Immigration Canada

DETAINED - DÉTENU

IMM 476 (2-81)



NOTICE OF REMOVAL & PROFILE - AVIS DE RENVOI ET RENSEIGNEMENTS

NOTE: THIS FORM TO BE COMPLETED IN EVERY AIR REMOVAL CASE AND PRESENTED TO AIRLINE AUTHORITIES AT LEAST 48 HOURS PRIOR TO DEPARTURE.

NOTA: CE FORMULAIRE DOIT ÊTRE REMPLI POUR TOUTE PERSONNE RENVOYÉE PAR AVION ET ÊTRE PRÉSENTÉ AUX RESPONSABLES DU TRANSPORTEUR AÉRIEN AU MOINS 48 HEURES AVANT LE DÉPART.

FILE NO. - NO DE RÉFÉRENCE

TO / POUR _____
(NAME OF TRANSPORTATION COMPANY - NOM DE LA SOCIÉTÉ DE TRANSPORT)

A RESERVATION ON YOUR FLIGHT NO. _____ OF _____ DESTINATION TO _____
UNE RÉSERVATION SUR VOTRE VOL NO _____ DU _____ À DESTINATION DE _____
DATE (COUNTRY, CITY, AIRPORT - AÉROPORT, VILLE, PAYS)

HAS BEEN MADE FOR THE FOLLOWING PERSON WHO IS UNDER REMOVAL ORDER FROM CANADA UNDER SUBSECTION _____ OF THE IMMIGRATION ACT.
A ÉTÉ EFFECTUÉE POUR LA PERSONNE SUIVANTE VISÉE PAR UNE ORDONNANCE DE RENVOI RENDUE CONTRE ELLE AUX TERMES DU PARAGRAPHE _____ DE LA LOI SUR L'IMMIGRATION.

FAMILY NAME _____ GIVEN NAME(S) _____
NOM DE FAMILLE PRÉNOM(S)

SEX _____ M _____ F _____ DATE OF BIRTH _____ CITIZEN OF _____
SEXE DATE DE NAISSANCE CITOYEN(NE) DE

PASSPORT/TRAVEL DOCUMENT No. _____ OF _____ NO DOCUMENT _____ LIABILITY FOR REMOVAL _____
PASSEPORT/DOCUMENT DE VOYAGE NO DU AUCUN DOCUMENT RESPONSABILITÉ FINANCIÈRE DU RENVOI CARRIER TRANSPORTEUR CEIC CEIC

A CEIC ESCORT _____ IS _____ IS NOT _____ PROVIDED _____
UN SERVICE D'ESCORTE EST N'EST PAS FOURNI PAR LA CEIC

IF A CEIC ESCORT IS PROVIDED, THE REASON IS AS FOLLOWS:
LE CAS ÉCHÉANT, CE SERVICE EST FOURNI POUR LA RAISON SUIVANTE:

THE ABOVE PHOTOGRAPH MUST MATCH EXACTLY THE ONE WHICH WILL APPEAR ON THE IMM 1226 DOCUMENT ENVELOPE TO BE EITHER PRESENTED TO THE FLIGHT ATTENDANT UPON DEPARTURE OR CARRIED BY THE ESCORT.
LA PHOTO CI-DESSUS DOIT ÊTRE IDENTIQUE À CELLE FIGURANT SUR L'ENVELOPPE (IMM1226) QUI DOIT ÊTRE REMISE À L'AGENT DE BORD AU DÉPART OU CONSERVÉE PAR L'AGENT D'ESCORTE DURANT LE TRAJET.

NAMES OF ACCOMPANYING FAMILY MEMBERS (IF APPLICABLE)
NOMS DES MEMBRES DE LA FAMILLE QUI ACCOMPAGNENT (S'IL Y A LIEU)

FULL NAME(S) OF ESCORT OFFICERS (IF APPLICABLE)
NOMS AU COMPLET DES AGENTS D'ESCORTE (S'IL Y A LIEU)

CIC DATE

SIGNATURE OF IMMIGRATION OFFICER - SIGNATURE DE L'AGENT D'IMMIGRATION


**ORDER OF THE DEPUTY MINISTER OF
EMPLOYMENT AND IMMIGRATION**

(under Section 105 of the Immigration Act)

**ORDONNANCE RENDUE PAR LE SOUS-MINISTRE
DE L'EMPLOI ET DE L'IMMIGRATION**

(en vertu de l'article 105 de la Loi sur l'immigration)

**To: THE WARDEN, GOVERNOR OR OTHER PERSON
IN CHARGE OF THE INSTITUTION CONCERNED**
**Pour: LE GARDIEN, LE DIRECTEUR OU TOUT AUTRE
RESPONSABLE DE L'ÉTABLISSEMENT CONCERNÉ**

WHEREAS

ATTENDU QUE _____

a person

personne à

respecting whom

l'égard de laquelle

an examination is to be held

☐

un interrogatoire doit être tenu

an inquiry is to be held

☐

une enquête doit être tenue

a deportation order has been made

☐

une mesure d'expulsion a été rendue

an exclusion order has been made

☐

une mesure d'exclusion a été rendue

 under the terms of the Immigration Act, is an inmate
of _____

 aux termes de la Loi sur l'immigration, a été incar-
céré(e) à _____

 I hereby direct you, at the expiration of the sentence
or term of confinement to which _____

 Je vous enjoins, par les présentes, de détenir ledit
(ladite) _____

 is subject or at the expiration of his sentence or term
of confinement as reduced by the operation of any
statute or other law or by an act of clemency, to detain
said person and deliver him to an Immigration Officer
to take into custody.

 puis de le(la) confier à un agent d'immigration aux fins
de mise sous garde, à l'expiration de sa peine ou de sa
détention, compte tenu des réductions de peine
résultant d'une loi ou autre mesure statutaire ou
d'une mesure de clémence.

Dated at

Fait à _____

this

ce _____

day of

jour de _____

19 _____

 Deputy Minister of Employment and Immigration
Le Sous-ministre de l'Emploi et de l'Immigration

 This form has been established by the Minister of Employment and Immigration
Formulaire établi par le Ministre de l'Emploi et de l'Immigration



Employment and Immigration Canada

Emploi et Immigration Canada

IE 14
APP. "O"

ORDER FOR DETENTION

ORDONNANCE DE DÉTENTION

TO:
POUR:

In accordance with the provisions of _____ of the Immigration Act,
Conformément aux dispositions de _____ de la Loi sur l'immigration,

I hereby order that _____ be detained
j'ordonne, par les présentes, que _____ soit détenu(e)

forthwith for
immédiatement aux fins

- ☐ an examination
d'examen
- ☐ an inquiry
d'enquête
- ☐ deportation
d'expulsion
- ☐ exclusion.
d'exclusion.

Dated at _____ this _____ day of _____ 19 _____
Fait à _____ ce _____ jour de _____ 19 _____

Authorized Officer and Title
Signature et titre de l'agent autorisé

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION

DOCUMENT ENVELOPE - ENVELOPPE POUR DOCUMENTS

FLIGHT ATTENDANT/PURSER
AGENT DE BORD/COMMISSAIRE DE BORDTo
A

(Airline - Ligne aérienne)

Canada Immigration Centre - Centre d'immigration Canada	
Telephone No. - N° de téléphone	
Area Code Ind. Rég.	
Immigration Officer - Agent d'immigration	

IMPORTANT INFORMATION/INSTRUCTIONS FOR AIRLINE OFFICIALS - IMPORTANT: RENSEIGNEMENTS ET INSTRUCTIONS POUR LES REPRÉSENTANTS DU TRANSPORTÉUR AÉRIEN

THIS ENVELOPE CONTAINS THE FOLLOWING DOCUMENTATION CONCERNING - CETTE ENVELOPPE CONTIENT LES DOCUMENTS SUIVANTS CONCERNANT

Full name of person concerned - Nom complet de la personne concernée

WHOSE PHOTOGRAPH APPEARS HEREUNDER AND WHO IS UNDER REMOVAL ORDER FROM CANADA - DONT LA PHOTO FIGURE CI-DESSOUS ET QUI A FAIT L'OBJET D'UNE ORDONNANCE DE RENVOI

☐ Passport or travel document
Passeport ou titre de voyage☐ Boarding pass
Carte d'embarquement☐ Birth certificate
Extrait de naissance☐ Airline ticket
Billet d'avion☐ Baggage check
Billet de bagages

IF AN IMMIGRATION ESCORT IS ACCOMPANYING THIS INDIVIDUAL, THE ESCORT WILL CARRY THIS ENVELOPE AND ITS CONTENTS ON ALL CONNECTING FLIGHTS IN CANADA AND ON ALL INTERNATIONAL FLIGHTS TO THE FINAL DESTINATION, WHERE THE CONTENTS WILL BE TURNED OVER TO LOCAL AUTHORITIES AT THE PORT OF ARRIVAL.

IF THERE IS NO IMMIGRATION ESCORT ACCOMPANYING THIS PERSON, THE ENVELOPE AND ITS CONTENTS WILL BE RETAINED BY THE FLIGHT ATTENDANT OR PURSER AND TURNED OVER TO EITHER A CANADA IMMIGRATION OFFICER (IF THE FLIGHT TERMINATES IN CANADA) OR WHERE FEASIBLE, TO LOCAL GOVERNMENT AUTHORITIES AT FINAL DESTINATION OUTSIDE CANADA.

N.B. IF THERE IS A CHANGE OF FLIGHTS SOMEWHERE BETWEEN THE CANADIAN PORT OF DEPARTURE AND FINAL DESTINATION, THE ESCORT AND ITS CONTENTS MUST BE TRANSFERRED TO THE FLIGHT ATTENDANT/PURSER CONCERNED. DO NOT GIVE THIS ENVELOPE AND ITS CONTENTS TO THE PERSON CONCERNED AT ANY TIME PRIOR TO ARRIVAL AT FINAL DESTINATION.

SI UN AGENT DE L'IMMIGRATION ESCORTE CETTE PERSONNE, IL DOIT CONSERVER CETTE ENVELOPPE ET SON CONTENU DURANT TOUS LES VOLS DE CORRESPONDANCE EFFECTUÉS AU CANADA AINSI QUE DURANT TOUS LES VOLS INTERNATIONAUX JUSQU'À L'ARRIVÉE À DESTINATION OU IL EN REMETTRA LE CONTENU AUX AUTORITÉS LOCALES.

SI AUCUN AGENT DE L'IMMIGRATION N'ESCORTE LA PERSONNE CONCERNÉE, L'ENVELOPPE (ET SON CONTENU) DOIT ÊTRE CONSERVÉE PAR L'AGENT DE BORD OU LE COMMISSAIRE DE BORD QUI LA REMETTRA ENSUITE À UN AGENT D'IMMIGRATION DU CANADA (SI LA DESTINATION DU VOL EST AU CANADA) OU AUX AUTORITÉS LOCALES LORSQUE LA DESTINATION EST À L'ÉTRANGER.

NOTA: S'IL Y A CHANGEMENT DE VOL ENTRE LE POINT DE DÉPART AU CANADA ET LA DESTINATION, L'ENVELOPPE (ET SON CONTENU) DOIT ÊTRE REMISE À L'AGENT DE BORD OU AU COMMISSAIRE DE BORD CONCERNÉ. CETTE ENVELOPPE (ET SON CONTENU) NE DOIT JAMAIS ÊTRE REMISE À LA PERSONNE CONCERNÉE DURANT LE TRAJET.

IN-CANADA CONNECTING FLIGHT INFORMATION	RENSSEIGNEMENTS SUR UN VOL DE CORRESPONDANCE AU CANADA
<input type="checkbox"/> NOT APPLICABLE; OR THE PERSON CONCERNED IS TRAVELING <input type="checkbox"/> WITH <input type="checkbox"/> WITHOUT AN IMMIGRATION ESCORT OFFICER ON (Flight No.) _____ OCCUPYING (Seat No.) _____	<input type="checkbox"/> SANS OBJET; OU UN AGENT D'ESCORTE DE L'IMMIGRATION <input type="checkbox"/> ACCOMPAGNERA <input type="checkbox"/> N'ACCOMPAGNERA PAS LA PERSONNE CONCERNÉE QUI OCCUPERA LE SIÈGE N° _____ SUR LE VOL N° _____
DEPARTING (Name of Airport) _____	PARTANT DE L'AÉROPORT DE _____
AT/ON (Time and Date) _____	A _____ H _____ LE _____ POUR ARRIVER A _____
ARRIVING AT (Name of Airport) _____	L'AÉROPORT DE _____
AT/ON (Time and Date) _____	A _____ H _____ LE _____
INTERNATIONAL FLIGHT INFORMATION	RENSSEIGNEMENTS SUR UN VOL INTERNATIONAL
<input type="checkbox"/> NOT APPLICABLE; OR THE PERSON CONCERNED IS TRAVELING <input type="checkbox"/> WITH <input type="checkbox"/> WITHOUT AN IMMIGRATION ESCORT OFFICER ON (Flight No.) _____ OCCUPYING (Seat No.) _____	<input type="checkbox"/> SANS OBJET; OU UN AGENT D'ESCORTE DE L'IMMIGRATION <input type="checkbox"/> ACCOMPAGNERA <input type="checkbox"/> N'ACCOMPAGNERA PAS LA PERSONNE CONCERNÉE QUI OCCUPERA LE SIÈGE N° _____ SUR LE VOL N° _____
DEPARTING (Name of Airport) _____	PARTANT DE L'AÉROPORT DE _____
AT/ON (Time and Date) _____	A _____ H _____ LE _____ POUR ARRIVER A _____
ARRIVING AT (Name of Airport) _____	L'AÉROPORT DE _____
AT/ON (Time and Date) _____	A _____ H _____ LE _____

COMPLETE NAME(S) OF IMMIGRATION ESCORT OFFICER(S) (where applicable) - NOMS COMPLETS DU OU DES AGENTS D'ESCORTE DE L'IMMIGRATION - (s'il y a lieu)

The above photograph must match exactly the photograph which appears on the IMM 1253 "Notice of removal & Prolongation" which was presented to airline officials on _____ DATE

La photo ci-dessus doit être identique à celle se trouvant sur l'IMM 1253 "Avis de renvoi et prolongation" qui a été transmis aux représentants du transporteur aérien le _____ DATE

IE 14 APP. "P"



5 3		CASE SERIAL NO. - N° DE CAS INITIAL	
		CLIENT ID - ID DU CLIENT	
		OFFICE FILE NO. - N° DE RÉFÉRENCE DU BUREAU	
SURNAME - NOM			
GIVEN NAMES - PRÉNOMS			
DATE OF BIRTH - DATE DE NAISSANCE D - J M Y - A 1 9		COUNTRY OF BIRTH - PAYS DE NAISSANCE	
		COUNTRY OF CITIZENSHIP - CITOYEN DE	
<p>ON THE BASIS OF THE EVIDENCE ADDUCED AT THE INQUIRY HELD UNDER THE PROVISIONS OF THE IMMIGRATION ACT AS AMENDED.</p> <p><input type="checkbox"/> I HEREBY ORDER THAT YOU BE DEPORTED PURSUANT TO SUBSECTION _____ OF THAT ACT</p> <p><input type="checkbox"/> I HEREBY CONDITIONALLY ORDER THAT YOU BE DEPORTED PURSUANT TO PARAGRAPH _____ OF THAT ACT BECAUSE YOU ARE A PERSON DESCRIBED IN</p>		<p>D'APRÈS LA PREUVE PRODUITE À L'ENQUÊTE TENUE AUX TERMES DE LA LOI SUR L'IMMIGRATION TELLE QUE MODIFIÉE.</p> <p><input type="checkbox"/> J'ORDONNE PAR LES PRÉSENTES QUE VOUS SOYEZ EXPULSÉ(E) CONFORMÉMENT AU PARAGRAPHE _____ DE LA LOI</p> <p><input type="checkbox"/> J'ORDONNE CONDITIONNELLEMENT PAR LES PRÉSENTES QUE VOUS SOYEZ EXPULSÉ(E) CONFORMÉMENT À L'ALINÉA _____ DE LA LOI PARCE QUE VOUS ÊTES UNE PERSONNE VISÉE A</p>	
<p>PURSUANT TO SUBSECTION 32.1(5) OF THE IMMIGRATION ACT, AS ENACTED BY S.C. 1986, C. 35, NO CONDITIONAL DEPORTATION ORDER MADE AGAINST A CLAIMANT IS EFFECTIVE UNLESS AND UNTIL:</p> <p>A) THE CLAIMANT WITHDRAWS THE CLAIM TO BE A CONVENTION REFUGEE;</p> <p>B) THE CLAIMANT IS FINALLY DETERMINED UNDER THIS ACT TO HAVE ABANDONED THE CLAIM TO BE A CONVENTION REFUGEE;</p> <p>C) THE CLAIMANT IS FINALLY DETERMINED UNDER THIS ACT NOT TO BE A CONVENTION REFUGEE; OR</p> <p>D) THE CLAIMANT IS DETERMINED AT AN INQUIRY REOPENED PURSUANT TO SUBSECTION 48.07(1) NOT TO HAVE A RIGHT UNDER SUBSECTION 4(2.1) TO REMAIN IN CANADA.</p>		<p>EN VERTU DU PARAGRAPHE 32.1(5) DE LA LOI SUR L'IMMIGRATION, ÉDICTÉ PAR L.C. 1986, CH. 35, UNE ORDONNANCE D'EXPULSION CONDITIONNELLE NE DEVIENT EXÉCUTOIRE QUE SI SE RÉALISE L'UNE OU L'AUTRE DES CONDITIONS SUIVANTES:</p> <p>A) LE DEMANDEUR DE STATUT RENONCE À SA REVENDICATION DU STATUT DE RÉFUGÉ AU SENS DE LA CONVENTION;</p> <p>B) LE DÉSISSANT DU DEMANDEUR DE STATUT A ÉTÉ, EN CETTE MATIÈRE, DÉFINITIVEMENT ÉTABLI;</p> <p>C) LE STATUT DE RÉFUGÉ AU SENS DE LA CONVENTION A ÉTÉ DÉFINITIVEMENT REFUSÉ AU DEMANDEUR DE STATUT;</p> <p>D) IL A ÉTÉ DÉTERMINÉ, LORS D'UNE ENQUÊTE ROUVERTE AUX TERMES DU PARAGRAPHE 48.07(1), QUE LE DEMANDEUR DE STATUT N'AVAIT PAS, EN APPLICATION DU PARAGRAPHE 4(2.1), LE DROIT DE DEMEURER AU CANADA.</p>	
<p>SUBSECTION 32.1(1) DEFINES A CLAIMANT AS A PERSON WHO CLAIMS TO BE A CONVENTION REFUGEE AND WHOSE CLAIM HAS BEEN REFERRED TO THE REFUGEE DIVISION.</p>		<p>LE PARAGRAPHE 32.1(1) DÉFINIT UN DEMANDEUR DE STATUT COMME ÉTANT UNE PERSONNE QUI REVENDIQUE LE STATUT DE RÉFUGÉ AU SENS DE LA CONVENTION ET DONT LA REVENDICATION EST DÉFERÉE À LA SECTION DU STATUT.</p>	
DATE ► TIME (L'HEURE) ► AT (À) ►		ADJUDICATOR (ARBITRE) ►	
<p>I FULLY UNDERSTAND THE ABOVE DECISION I ALSO FULLY UNDERSTAND THAT I MUST NOT COME INTO CANADA WITHOUT THE WRITTEN CONSENT OF THE MINISTER OF EMPLOYMENT AND IMMIGRATION AT ANY TIME AFTER THE DAY ON WHICH I AM REMOVED FROM OR OTHERWISE LEAVE CANADA.</p>		<p>JE COMPRENDS PARFAITEMENT LA DÉCISION INDIQUÉE CI-DESSUS, EN OUTRE JE COMPRENDS PARFAITEMENT QU'APRÈS LA DATE OU J'AURAI ÉTÉ RENVOYÉ(E) DU CANADA OU CELLE OU J'AURAI PAR AILLEURS QUITTÉ LE CANADA JE NE DEVRAI PAS Y REVENIR SANS L'AUTORISATION ÉCRITE DU MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION.</p>	
NAME (NOM) ► SIGNATURE ► DATE ►		NAME (NOM) ► SIGNATURE ► DATE ►	
<p>I HAVE FAITHFULLY AND ACCURATELY INTERPRETED IN THE</p> <p>LANGUAGE THE INFORMATION PROVIDED ABOVE.</p>		<p>J'AI INTERPRÉTÉ FIDÈLEMENT ET EXACTEMENT EN</p> <p>LES RENSEIGNEMENTS PRÉCITÉS.</p>	
NAME (NOM) ► SIGNATURE ► DATE ►		NAME (NOM) ► SIGNATURE ► DATE ►	
DATE SIGNED (SIGNÉ LE) (9)		OFFICE OF ISSUE - BUREAU DE DÉLIVRANCE (10)	

MM 1215 EP-P (07-09) B

Canada

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION
LE PRÉSENT DOCUMENT EST LA PROPRIÉTÉ DU GOUVERNEMENT DU CANADA

ADJUDICATOR 1
ARBITRE

PURSUANT TO SUBSECTION 32.1(5) OF THE IMMIGRATION ACT, THIS CONDITIONAL DEPORTATION ORDER IS EFFECTIVE AS OF _____		EN VERTU DU PARAGRAPHE 32.1(5) DE LA LOI SUR L'IMMIGRATION, LA PRÉSENTE MESURE D'EXPULSION CONDITIONNELLE EST EXÉCUTOIRE À COMPTER DU _____	
DATE _____ AT _____		OFFICER SIGNATURE - SIGNATURE _____	

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA
FORMULAIRE ÉTABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION
LE PRÉSENT DOCUMENT EST LA PROPRIÉTÉ DU GOUVERNEMENT DU CANADA

MM 1215 EP-P (07-09) B

Canada



Employment and Immigration Canada
EXCLUSION ORDER

Emploi et Immigration Canada
MESURE D'EXCLUSION

V 030 429 066

TE 14 APP. "R"

HEADQUARTERS: USE ONLY - RESERVE A L'ADMINISTRATION CENTRALE		CASE SERIAL NO. - N° DE CAS INITIAL	
5 4		CLIENT ID - ID DU CLIENT	
SURNAME - NOM		OFFICE FILE NUMBER N° DE REFERENCE DU BUREAU	
GIVEN NAMES - PRENOMS			
DATE OF BIRTH DATE DE NAISSANCE		COUNTRY OF BIRTH / PAYS DE NAISSANCE	
COUNTRY OF CITIZENSHIP - CITOYEN DE			
<p>ON THE BASIS OF THE EVIDENCE ADDUCED AT THE INQUIRY HELD UNDER THE PROVISIONS OF THE IMMIGRATION ACT AS AMENDED.</p> <p><input type="checkbox"/> I HEREBY ORDER THAT YOU BE EXCLUDED PURSUANT TO SUBSECTION _____ OF THAT ACT.</p> <p><input type="checkbox"/> I HEREBY CONDITIONALLY ORDER THAT YOU BE EXCLUDED PURSUANT TO PARAGRAPH _____ OF THAT ACT.</p> <p>BECAUSE YOU ARE A PERSON DESCRIBED IN</p>			
<p>D'APRES LA PREUVE PRODUITE A L'ENQUETE TENUE AUX TERMES DE LA LOI SUR L'IMMIGRATION TELLE QUE MODIFIEE.</p> <p><input type="checkbox"/> J'ORDONNE PAR LES PRESENTES QUE VOUS SOYEZ EXCLU(E) CONFORMEMENT AU PARAGRAPHE _____ DE LA LOI.</p> <p><input type="checkbox"/> J'ORDONNE CONDITIONNELLEMENT PAR LES PRESENTES QUE VOUS SOYEZ EXCLU(E) CONFORMEMENT A L'ALINEA _____ DE LA LOI.</p> <p>PARCE QUE VOUS ETES UNE PERSONNE VISEE A</p>			
<p>PURSUANT TO SUBSECTION 32.1(5) OF THE IMMIGRATION ACT, AS ENACTED BY S. C. 1988, C. 35, NO CONDITIONAL EXCLUSION ORDER MADE AGAINST A CLAIMANT IS EFFECTIVE UNLESS AND UNTIL:</p> <ul style="list-style-type: none">A) THE CLAIMANT WITHDRAWS THE CLAIM TO BE A CONVENTION REFUGEE;B) THE CLAIMANT IS FINALLY DETERMINED UNDER THIS ACT TO HAVE ABANDONED THE CLAIM TO BE A CONVENTION REFUGEE;C) THE CLAIMANT IS FINALLY DETERMINED UNDER THIS ACT NOT TO BE A CONVENTION REFUGEE; ORD) THE CLAIMANT IS DETERMINED AT AN INQUIRY REOPENED PURSUANT TO SUBSECTION 48.07(1) NOT TO HAVE A RIGHT UNDER SUBSECTION 4(2.1) TO REMAIN IN CANADA.		<p>EN VERTU DU PARAGRAPHE 32.1(5) DE LA LOI SUR L'IMMIGRATION, EDICTE PAR L. C. 1988, CH. 35, UNE ORDONNANCE D'EXCLUSION CONDITIONNELLE NE DEVIENT EXECUTOIRE QUE SI SE REALISE L'UNE OU L'AUTRE DES CONDITIONS SUIVANTES:</p> <ul style="list-style-type: none">A) LE DEMANDEUR DE STATUT RENONCE A SA REVENDICATION DU STATUT DE REFUGIE AU SENS DE LA CONVENTION;B) LE DESISTEMENT DU DEMANDEUR DE STATUT A ETE, EN CETTE MATIERE, DEFINITIVEMENT ETABLI;C) LE STATUT DE REFUGIE AU SENS DE LA CONVENTION A ETE DEFINITIVEMENT REFUSE AU DEMANDEUR DE STATUT;D) IL A ETE DETERMINE, LORS D'UNE ENQUETE ROUVERTE AUX TERMES DU PARAGRAPHE 48.07(1), QUE LE DEMANDEUR DE STATUT N'AVAIT PAS, EN APPLICATION DU PARAGRAPHE 4(2.1), LE DROIT DE DEMEURER AU CANADA.	
<p>SUBSECTION 32.1(1) DEFINES A CLAIMANT AS A PERSON WHO CLAIMS TO BE A CONVENTION REFUGEE AND WHOSE CLAIM HAS BEEN REFERRED TO THE REFUGEE DIVISION.</p>		<p>LE PARAGRAPHE 32.1(1) DEFINIT UN DEMANDEUR DE STATUT COMME ETANT UNE PERSONNE QUI REVENDIQUE LE STATUT DE REFUGIE AU SENS DE LA CONVENTION ET DONT LA REVENDICATION EST DEFEREE A LA SECTION DU STATUT</p>	
DATE		ADJUDICATOR ARBITRE	
I FULLY UNDERSTAND THE ABOVE DECISION. I ALSO FULLY UNDERSTAND THAT I MUST NOT COME INTO CANADA WITHOUT THE WRITTEN CONSENT OF THE MINISTER OF EMPLOYMENT AND IMMIGRATION AT ANY TIME DURING THE TWELVE MONTH PERIOD IMMEDIATELY FOLLOWING THE DAY ON WHICH I AM REMOVED FROM OR OTHERWISE LEAVE CANADA.		JE COMPRENDS PARFAITEMENT LA DECISION INDIQUEE CI-DESSUS. EN OUTRE JE COMPRENDS PARFAITEMENT QUE DURANT LES DOUZE MOIS QUI SUIVRONT IMMEDIATEMENT LA DATE OU J'AI ETE RENVOYE(E) DU CANADA OU CELLE OU J'AI PAR AILLEURS QUITTE LE CANADA, JE NE DOIS PAS Y REVENIR SANS L'AUTORISATION ECRITE DU MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION.	
NAME NOM		SIGNATURE	
I HAVE FAITHFULLY AND ACCURATELY INTERPRETED IN THE		J'AI INTERPRETE FIDELLEMENT ET EXACTEMENT EN	
LANGUAGE THE INFORMATION PROVIDED ABOVE.		LES RENSEIGNEMENTS PRECITES.	
NAME NOM		SIGNATURE	
DATE SIGNED SIGNE LE		OFFICE OF ISSUE - BUREAU DE DELIVRANCE	

IMM 1214 EP-P (07-89) B

Canada

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA
FORMULAIRE ETABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION
LE PRESENT DOCUMENT EST LA PROPRIETE DU GOUVERNEMENT DU CANADA

ADJUDICATOR 1
ARBITRE 1

PURSUANT TO SUBSECTION 32.1(5) OF THE IMMIGRATION ACT, THIS CONDITIONAL EXCLUSION ORDER IS EFFECTIVE AS OF _____		EN VERTU DU PARAGRAPHE 32.1(5) DE LA LOI SUR L'IMMIGRATION, LA PRESENTE MESURE D'EXCLUSION CONDITIONNELLE EST EXECUTOIRE A COMPTER DU _____	
DATE _____ AT _____		OFFICER SIGNATURE - SIGNATURE _____	

THIS FORM HAS BEEN ESTABLISHED BY THE MINISTER OF EMPLOYMENT AND IMMIGRATION
THIS DOCUMENT IS THE PROPERTY OF THE GOVERNMENT OF CANADA
FORMULAIRE ETABLI PAR LE MINISTRE DE L'EMPLOI ET DE L'IMMIGRATION
LE PRESENT DOCUMENT EST LA PROPRIETE DU GOUVERNEMENT DU CANADA

IMM 1214 EP-P (07-89) B

Canada

07-89

PROGRAM DATA, NHO 3
DIVISION DES DONNEES ADMINISTRATION CENTRALE



TO: Port Director
United States Immigration and
Naturalization Service

FROM: Manager
Canada Immigration Centre

Re: Return of Non-Resident Alien - Reciprocal Arrangement - Section III.2.

Name:

Date of Birth:

Citizenship:

Date of Arrival at a Canadian Port of Entry: _____ 19__

Please be advised that the above subject has been denied admission and may subsequently be ordered removed from Canada.

The subject proceeded to this port directly from the United States, and has been denied admission to Canada at this port. Inquiry action which may result in the person being ordered removed from Canada is being initiated.

If inquiry action results in the issuance of a removal order a request for the subject's return to the U.S.A. will be made in the appropriate manner pursuant to Section III.2.C of the Reciprocal Arrangement

I trust this information will assist with the effective implementation of the Reciprocal Arrangement.

Date

Signature

CHAPTER 29

HANDLING OF HUMAN RIGHTS COMPLAINTS FILED AGAINST EIC/IMMIGRATION PROGRAM

AUTHORITY

Canadian Human Rights Act

GENERAL INTENT

29.01 PURPOSE

This chapter will:

- 1) provide direction on the methods by which contacts with Human Rights officials should be carried out;
- 2) establish co-ordination mechanisms and internal reporting procedures for human rights complaints filed against the Immigration Program; and
- 3) identify the various levels of responsibility within EIC relative to those human rights complaints.

29.02 - 29.04 SPARES

GUIDELINES

29.05 GENERALITIES

- * The following instructions apply to the handling of complaints filed under the Canadian Human Rights Act (CHR Act) against EIC Immigration policies, programs or services. Terms commonly used by the Canadian Human Rights Commission (CHRC) to describe activities and stages during the complaint cycle are defined in Appendix "A".

29.06 BACKGROUND

- *
 - 1) The CHR Act was proclaimed in March, 1978. It prohibits discrimination in employment or in the provision of goods, services, facilities and accommodation on the ground of race, national or ethnic origin, colour, religion, age, sex, marital status, family status, conviction for which a pardon has been granted and disability.
 - 2) In August 1979, EIC and the Canadian Human Rights Commission (CHRC) entered into an agreement on the procedures for investigating complaints with a minimum disruption of the enforcement action permitted under the Immigration Act, 1976.
 - 3) Following this agreement, the CHRC gazetted the Immigration Investigation Regulations and the Immigration Guidelines (see pages 17 to 20 of Chapter IL 10). See also pages 21 to 26 of IL 10 for relevant sections of the Canadian Human Rights Act.

29.07 THE CHRC'S MANDATE AND AUTHORITY

1) Its Mandate:

The CHR Act empowers the CHRC to:

- a) receive and investigate complaints of discrimination (Sections 32 and 35);
- b) obtain a resolution or settlement where discrimination is established (Section 36(3) and 37(1)); and
- c) combat discriminatory policies and practices through information, education and research (Section 22).



2) a) Its Authority:

The CHRC may only deal with complaints that:

i) involve an organization under federal jurisdiction;

* ii) relate to one of the ten prohibited grounds;

* iii) concern a discriminatory practice as set out in Sections 5 to 13.1 of the Act. See IL 10, page 22.

b) In doing so, the CHRC may:

i) appoint an Investigator (Section 35(1));

ii) appoint a Conciliator (Section 37(1));

iii) appoint a Human Rights Tribunal (Section 39(1)).

* 3) It is an offence to obstruct the progress of an Investigator or a Tribunal, or to fail to comply with the terms of a settlement (Section 46(1)). It is also an offence to intimidate or discriminate against someone who has made a complaint or is involved in the proceedings (Section 45) (see IL 10, page 24).

29.08 - 29.14 SPARES

29.15 SECTION 32 - CANADIAN HUMAN RIGHTS ACT

1) Section 32(5) of the CHR Act stipulates that the CHRC may only deal with a complaint if the practice

"a) occurred in Canada and the victim of the practice was at the time of such act or omission either lawfully in Canada or, if temporarily absent from Canada entitled to return to Canada;

b) occurred outside Canada and the victim of the practice was at the time of such act or omission a Canadian citizen or an individual admitted to Canada for permanent residence."

2) In complaints related to the Immigration Program, the CHRC will interpret 32(5)(a) "lawfully present in Canada" as applying only to:

a) a Canadian citizen;

b) an individual admitted to Canada as a permanent resident and who has not ceased to have that status pursuant to subsection 24(1) of the Immigration Act, 1976;

- c) a person granted entry to Canada as a visitor and not having ceased to be a visitor pursuant to subsection 26(1) of the Immigration Act, 1976;
 - d) a person in possession of a valid and subsisting Minister's permit pursuant to subsection 37(1) of the Immigration Act, 1976.
- 3) The CHRC will interpret 32(5)(b) "temporarily absent from Canada and entitled to return to Canada" as applying only to:
- a) a Canadian citizen;
 - b) an individual admitted to Canada as a permanent resident and who has not ceased to have that status pursuant to subsection 24(1) of the Immigration Act, 1976.

29.16 - 29.20 SPARES



IMMIGRATION
MANUAL

GUIDE
DE L'IMMIGRATION

IE 29.22

b) Next, EIC's regional or HQ representatives will:

- i) provide general information on the relevant Immigration procedures, regulations or policy;
- ii) in cases where the CHRC has determined that a preliminary report is required, Immigration officials will prepare, within 3 working days, if possible, a preliminary report that covers the following:
 - A) status of the alleged victim under Section 32(5) of the CHR Act;
 - B) where applicable, status of any enforcement action against the alleged victim;
 - C) type of complaint involved: 1) the complaint relates to the conduct of a particular officer or 2) the complaint related to the general administration, or legal procedures under the Immigration Act and Regulations;
 - D) opinion of Immigration officials as to whether the enquiry comes under paragraph 33(a) or (b)(i) or (ii) of the CHR Act and whether the resolution of the enquiry may be possible by way of advice or settlement.
- c) If a written report is required, the CHRC will so inform EIC by letter and will provide a copy of the Intake form. EIC representative will forward the report to the CHRC's representative within 10 working days (including the time required to prepare the preliminary report if necessary).
- d) Upon receipt of the report, the CHRC's regional representative will determine whether a complaint form is to be executed and whether the complaint may proceed beyond Section 33 of the CHR Act.

2) Complaints

- a) A complaint is filed when the complainant completes and signs an official Complaint Form in which he affirms to have "reasonable grounds for believing that a discriminatory practice has been engaged in".
- b) This step may replace the Enquiry in cases where the complainant chooses to file a formal complaint or follow it in cases where either the complainant or the CHRC feels a formal investigation as described in the CHR Act is required.
- c) In cases where the complainant insists on signing a Complaint Form, the CHRC and EIC will follow the procedures established for Enquiries. In these cases, however, the CHRC (HQ) will have to determine whether the allegations are substantiated as prescribed in Section 36(3) and (4) of the CHR Act.

- d) In cases where the complainant or the CHRC feels a formal investigation is required, the CHRC will serve, on the EIC Chairman/Deputy Minister, with a copy to the Region concerned:
- i) a copy of the complaint;
 - ii) the name of the investigator designed to investigate the complaint, pursuant to subsection 35(1) of the CHR Act, and
 - iii) a proposed investigation plan
 - A) identifying relevant documents believed to be in the possession of EIC that are required to be examined by the investigator.
 - B) identifying persons in the employment of EIC who are required to be examined by the investigator, and
 - C) specifying the days and times at which such documents or persons are required for examination. No investigation plan shall require documents or persons for examination earlier than seven (7) working days from the date that the EIC Chairman/Deputy Minister was served with the formal notice.
- e) The CHRC will also serve a copy of the complaint on any EIC employee who is identified in the said complaint or who is the person whose actions resulted in the complaint and if that person is required to be examined by the investigator he will not be examined until 48 hours after he has been served with a copy of the complaint.

29.23 DELEGATION OF RESPONSIBILITIES

Settlement of human rights complaints create precedents and may have far reaching implications for EIC. It is, therefore, essential that all stages of the investigation and settlement be monitored so that EIC Management benefits from the expertise developed within EIC and that advice provided on the course of action to be adopted be consistent. To that purpose, the responsibility to oversee the implementation of the CHR Act and to co-ordinate the handling of all human rights complaints has been delegated to the EIC Human Rights Directorate at Headquarters and to the Regional Human Rights Advisor in the Regions. In the contacts with the CHRC, responsibilities are delegated as follows:

1) Enquiries

- a) At this stage, the CHRC's representatives will be asked to contact the Regional Director, Director General, Immigration or the Immigration Area's Manager/District Administrator as per established procedures in the EIC Region where the enquiry arises.



IMMIGRATION
MANUAL

GUIDE
DE L'IMMIGRATION

IE 29.23

- b) In the Region where the responsibility for the handling of the enquiry is delegated to the Immigration Area Manager/District Administrator, copies of all Human Rights correspondence must be sent to the office of the Regional Director, Director General, Immigration for monitoring purposes. Correspondence or consultation between Regions and HQ on these enquiries will be carried out with Immigration (H.Q.). Where needed, the HQ Immigration Group will consult with Legal, Staff Relations or the Human Rights Directorate.
- c) At the enquiry stage, the Regional Human Rights coordinator will act as a resource person and will advise Regional Management on the impact of the Canadian Human Rights Act on EIC's operations.

2) Complaints

As discussed in 29.22 2), there are two types of complaints:

- a complaint resulting from a complainant filing a formal complaint rather than requesting an inquiry; and,
- a complaint served on EIC Chairman/Deputy Minister.

a) Type (1) complaints:

These will be handled as in (1)(a) above.

b) Type (2) complaints:

All complaints will be monitored by Headquarters as follows:

i) EIC Human Rights Directorate

- A) serves as CEIC's official contact with the Canadian Human Rights Commission;
- B) receives and routes all human rights complaints filed against EIC. For Immigration related complaints, the initial contact will be with the Executive Director, Immigration.
- C) ensures the requirement established by the Human Rights Investigation Regulations are satisfied;
- D) informs EIC staff concerned of the rights and obligations under the Canadian Human Rights Act;
- E) advises regional and national headquarters management and staff in all matters related to the Canadian Human Rights Act and complaints filed under it;

- F) advises on the acceptability and implications of terms of settlement proposed by the Canadian Human Rights Commission;
- G) coordinates the negotiations with the investigator and/or the conciliator as required;
- H) maintains up-to-date information on all human rights complaints filed against EIC.

ii) HQ Immigration:

- A) upon receipt of the complaint, the Special Policy Advisor identifies the HQ Immigration Director or Director General responsible for the case and will ask for the designation of a contact officer.
- B) upon receipt of the complaint, the contact officer gathers the data required to establish EIC's official position;
- C) consults, as required, with Regional Staff, Legal Services, Staff Relations or the Human Rights Directorate;
- D) participates in the negotiations with the Investigator and/or Conciliator;
- E) in consultation with the Human Rights Directorate and/or Legal Services assesses the proposed terms of settlement and advises management on their acceptability;
- F) keeps the Human Rights Directorate informed of the developments as they occur.

3) Conciliation and HR Tribunal

- a) Complaints not resolved at the investigation stage are passed on to a CHRC Conciliator.
- b) All such negotiations will be handled by National Headquarters. Complaints referred to a Human Rights Tribunal will be handled by National Headquarters in consultation with Legal Services.

29.24 OBLIGATIONS UNDER THE CHR ACT

- 1) When the CHRC launches an investigation into a complaint, EIC must:
 - a) meet and allow its employees to meet with the Investigator;
 - b) supply the Investigator with relevant facts and information;



IE 29.24

- c) make available relevant files, policy statements and other pertinent documents;
 - d) facilitate and require its employees to facilitate the Investigator's task; and
 - e) observe and require its employees to observe the terms of settlements agreed to by the CHRC and EIC.
- 2) These obligations are covered under Section 35(1), (2) and (3) of the CHR Act; failure to comply would leave EIC open to legal action (Section 46).
- 3) Employee's Obligations

When involved in the investigation of a human rights complaint, EIC expects its employees to:

- a) meet with the Investigator as directed by Management. Should the employee so wish, he may ask someone (for example a supervisor, a Shop Steward or the Manager) to sit through the interview with the CHRC's Investigator. There is no reason or reasonable expectation that a lawyer should be present for each interview between the CHRC's representative and EIC staff.
- b) reveal all the relevant facts known to him.

These obligations are covered under Section 35(1)(2)(3) of the CHR Act.

29.25 EMPLOYEE'S RIGHTS

- 1) Generally, EIC employees will not be held accountable for the Commission's corporate policies, practices or procedures. In cases where the allegations of discrimination result from implementation or enforcement of legislation, regulations, policies, procedures or programs as directed by the Commission, EIC employees may be named in the complaint but EIC will normally act as Respondent.
- 2) Should EIC employees innocently misinterpret a corporate policy, procedure, program or service, the Commission will not penalize them. Should the evidence show, however, that employees have knowingly contravened corporate policies, procedures, programs or services, EIC may also be named co-respondent but may take appropriate disciplinary measures. In these cases, the employees may avail themselves of the redress procedure available under section 90 of the Public Service Staff Relations Act.

29.26 ON...SPARES

HUMAN RIGHTS GLOSSARY

1. CANADIAN HUMAN RIGHTS ACT (CHRA)

- 1) The CHRA was proclaimed by Parliament in March, 1978. It applies to all federal government departments, agencies and Crown corporations and to business and industry under federal jurisdiction such as banks, airlines and railways in their employment policies and practices and in their dealings with the public.
- 2) The Act prohibits discrimination on the following grounds:
 - race,
 - national or ethnic origin,
 - colour,
 - religion,
 - age,
 - sex,
 - marital status,
 - conviction for which pardon has been granted,
 - family status,
 - disability.

2. CANADIAN HUMAN RIGHTS COMMISSION

- 1) The Canadian Human Rights Commission administers the Canadian Human Rights Act. It consists of a Chief Commissioner, a Deputy Chief Commissioner and from three (3) to six (6) other members appointed by the Governor in Council. It reports directly to Parliament, not to a Minister.
- 2) The CHRA empowers Canadian Human Rights Commission to:
 - receive and investigate complaints of discrimination;
 - obtain a resolution or settlement where discrimination is established; and
 - combat discriminatory policies and practices by means of information, education and research.

3. HUMAN RIGHTS COMPLAINTS

- 1) The Canadian Human Rights Commission will accept a complaint only if the problem falls under federal jurisdiction and is based on alleged discrimination on at least one of the grounds prohibited by the CHRA.

- 2) A complaint is filed when the complainant signs the official Canadian Human Rights Commission form and the Canadian Human Rights Commission accepts it. Complaints may be filed by an individual or group of individuals, or Canadian Human Rights Commission may initiate complaints.

4. CANADIAN HUMAN RIGHTS COMMISSION INVESTIGATOR

- 1) An investigator is a Canadian Human Rights Commission employee who is appointed to investigate in order to determine whether the complaint is substantiated (that is, if the evidence supports the allegation of discrimination) or unsubstantiated (that is, evidence to substantiate the complaint cannot be produced).
- 2) The investigator is empowered to:
 - enter any premises (not a private dwelling place) to carry out inquiries;
 - requests books or other documents for inspection or for obtaining copies.
- 3) Upon completion of the investigation, the investigator must submit a report to the Canadian Human Rights Commission recommending:
 - that the complaint be dismissed because it is unfounded or beyond the jurisdiction of the Canadian Human Rights Commission; is trivial, frivolous, vexatious or made in bad faith; or is based on acts or omissions the last of which occurred more than a year prior to the complaint;
 - that the complaint be found to be substantiated on the basis of the evidence;
 - that the proposed settlement be accepted;
 - that a conciliator be appointed to negotiate a settlement;
 - that a Human Rights Tribunal be set up to hear the complaint.
- 4) The investigator's report will include the respondent's (person or organization against whom the complaint was filed) comments on the proposed terms of settlement, or the respondent's proposals, if any.

5. CANADIAN HUMAN RIGHTS COMMISSION NOTIFICATION OF DECISION

On receipt of the investigator's report, the Canadian Human Rights Commission will:

- adopt the report if satisfied that the complaint is substantiated;



- dismiss the complaint if satisfied that the complaint is not substantiated;
- send notice of its decision to the complainant, the respondent(s) (person(s) against whom the complaint was made) and any person(s) it is considered necessary to notify.

6. CONCILIATOR

- 1) A conciliator is a Canadian Human Rights Commission employee other than the investigator who is appointed to bring about a settlement if the complaint has not been:
 - settled by investigation;
 - referred (this definition applies to complaints which could be dealt with according to a procedure provided for under another Act other than CHRA);
 - dismissed.
- 2) The conciliator will hold a series of meetings in order to negotiate a settlement that will be acceptable to both the complainant and the respondent. The information provided is confidential and will not be disclosed without the consent of the person who gave the information. Furthermore, the conciliator is not a compellable witness, that is he cannot be made to testify before a Human Rights Tribunal.
- 3) A settlement arrived at by conciliation must be approved and certified by the Canadian Human Rights Commission; once certified its terms are binding.

7. HUMAN RIGHTS TRIBUNAL

- 1) The Canadian Human Rights Commission may appoint a Tribunal any time after accepting a complaint if it feels that formal investigation and conciliation would serve no useful purpose (e.g. when the complaint refers to an article of a Law) or where conciliation fails to bring about a settlement.
- 2) Members of the Tribunal are appointed by an order of the Governor in council and are not Canadian Human Rights Commission employees. They are empowered to:
 - dismiss the case; or
 - order that:
 - the discriminatory practice cease and not recur;

- the rights, opportunity and privileges be restored;
- the victim be compensated for wages lost and expenses incurred;
- special programs, plans or arrangements be undertaken to prevent recurrence (Affirmative Action); and
- the complainant be compensated in an amount of up to \$5,000.

3) Orders issued by a Human Rights Tribunal can be registered in the Federal Court of Canada and are enforceable. Once registered, orders can be appealed.

8. OFFENCES

- 1) It is an offence for any person to fail to comply with the terms of a settlement/or to obstruct the progress of a Canadian Human Rights investigator or Tribunal.
- 2) A person who is guilty of such an offence may be fined up to \$5,000. Employers, employer associations or employee organizations may be liable to a fine of up to \$50,000.

9. RIGHTS AND OBLIGATIONS OF RESPONDENTS

Under the Human Rights Act, the respondent(s) (person(s) against whom a complaint has been filed) has the following rights and responsibilities.

1) Rights

As the respondent, CEIC has the right to:

- be informed of the nature of the complaint;
- be informed of the investigation plan;
- ensure that CEIC's interpretation of the matter is recorded by the investigator;
- ask that during the course of the investigation, normal business be disturbed as little as possible; and
- propose a settlement that would rectify the situation leading to the complaint.



2) Obligations

As the respondent, CEIC is obliged to:

- meet the investigator at the earliest convenient moment;
- supply the investigator with relevant information;
- make available personnel records, policy statements and other pertinent document;
- facilitate the investigator's task;
- allow employees to reveal their knowledge of the matter; and
- observe the terms of settlement agreed to by the Canadian Human Rights Commission/CEIC.

A person who is guilty of such an offence may be fined up to \$5,000. Employers, employer associations or employee organizations may be liable to a fine of up to \$50,000.

